

# **DEVELOPMENT ASSESSMENT REPORT – DA045/22**

## **PUBLIC TOILET AND RELATED WORKS**

### **GREG FEATHERSTONE PARK, BATHURST STREET RYDAL**

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## **1. PROPOSAL**

Development Application DA045/22 seeks consent for the construction of a new public toilet and ancillary works on land adjacent to the Main Western Railway known as Greg Featherstone Park, Bathurst Street Rydal. The land is owned by the NSW Transport Asset Holding Entity (TAHE) and is managed by Transport for NSW. The location of the works is approximately 50m north of the Rydal Railway Station.

The proposal involves the installation of a prefabricated structure as illustrated below. The structure will contain a single, accessible toilet pedestal and associated facilities including a wash basin. The structure has a floor area of 11.13m<sup>2</sup> (2.25m x 4.947) and is 3m in height.



To enable adequate access to the facility, a retaining wall, concrete ramp and path will also be constructed. The toilet will be connected to reticulated water supply and a new pump out wastewater treatment system will be provided. Details of the ancillary site works are illustrated on the image below.

The site plan illustrates the proposed extension of the Main Western Railway. Key features include:

- Proposed Ramp:** 1500 wide, grade 1:14.
- Proposed Embankment:** 1500 wide, grade 1:1.5.
- Proposed Path:** 1500 wide.
- Proposed Concrete Structure:** Located at the end of the path.
- Boundaries:** Bathurst Street to the south, Main Western Railway to the north.
- Other Features:** Trees, a north arrow, and a scale bar.



## 2. SUMMARY

To assess and recommend determination of DA045/22 with a recommendation for approval subject to conditions.

## 3. LOCATION OF THE PROPOSAL

Railway land – adjacent to Main Western Railway and Bathurst Street, Rydal

## 4. ZONING

The area known as Greg Featherstone Park is zoned part SP2 Infrastructure and part RU5 Village under the *Lithgow Local Environmental Plan 2014* (LEP). The location of the toilet building is within the SP2 zone. An extract of the LEP zoning map is provided below.





## 5. PERMISSIBILITY

*State Environmental Planning Policy (Transport and Infrastructure) 2021* contains provisions relating to various public works and infrastructure. Specifically, Division 12 of Chapter 2 of this SEPP contains provisions applying to parks and other public reserves. Section 2.73(3) provides the following (emphasis added):

- (3) *Any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council—*
  - (a) *development for any of the following purposes—*
    - (i) *roads, pedestrian pathways, cycleways, single storey car parks, ticketing facilities, viewing platforms and pedestrian bridges,*
    - (ii) *recreation areas and recreation facilities (outdoor), but not including grandstands,*
    - (iii) *visitor information centres, information boards and other information facilities,*
    - (iv) *lighting, if light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Standard,*

- (v) *landscaping, including landscape structures or features (such as art work) and irrigation systems,*
- (vi) *amenities for people using the reserve, including toilets and change rooms,***
- (vii) *food preparation and related facilities for people using the reserve,*
- (viii) *maintenance depots,*
- (ix) *portable lifeguard towers,*
- (b) *environmental management works,*
- (c) *demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area).*

Based on the above, the proposed works can be undertaken without consent with relevant environmental impacts addressed under the provisions of **Part 5** of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The applicant was advised of the above and given the opportunity to withdraw the application. In response, the applicant requested the application be determined as lodged under Part 4 of the EP&A Act as a development application notwithstanding the above.

Based on the above provisions, zoning and permissibility are not a significant issue. However, for the purposes of permissibility under the LEP, the proposal is best characterised as part of a "recreation area" which is defined as:

*recreation area means a place used for outdoor recreation that is normally open to the public, and includes—*

- (a) a children's playground, or*
  - (b) an area used for community sporting activities, or*
  - (c) a public park, reserve or garden or the like,*
- and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).*

A recreation area is permitted with consent in both the SP2 and RU5 zones.

## **5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)**

### **Lithgow Community Participation Plan**

The proposed development was placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners have been notified of the proposal. The proposal documents were placed on public exhibition for 14 days in accordance with the Participation Plan. No submissions in response were received.

### **Policy 7.7 Calling In Of Development Applications By Councillors**

This application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors" by Councillor Stephen Lesslie on 5 May 2022. The application will be reported to an Ordinary Meeting of Council for determination.

## 5.2 FINANCIAL IMPLICATIONS

### Section 94A (Section 7.12) Development Contributions Plan 2015

The Section 94A (Section 7.12) plan does not apply to this development as per the following clause:

#### ***C7 Are there any exemptions to the levy?***

##### ***Other development exempted from the levy***

*The following types of development or components of development will also be exempted from a levy under this Plan:*

*a) Development by or on behalf of Lithgow City Council;*

The development was lodged by Council's Infrastructure Services Department and therefore is exempt from Council's Section 94A Contributions.

## 5.3 LEGAL IMPLICATIONS

### ***Local Government Act 1993***

A Section 68 application **S68053/22** for the installation and operation of an on-site sewage management system was submitted concurrently with the development application for assessment.

The Section 68 was referred to Council's Building Surveyor for assessment with the approval to be issued under separate cover.

### ***Environmental Planning and Assessment Act 1979***

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:

#### 5.3.1 Any Environmental Planning Instruments

### ***Lithgow Local Environmental Plan 2014***

LEP 2014 – Compliance Check		
Clause		Compliance
<b>Land Use table</b>	RU5 Village	Yes
<b>Land Use table</b>	SP2 Infrastructure	Yes
<b>5.10</b>	Heritage conservation	Yes
<b>7.1</b>	Earthworks	Yes
<b>7.3</b>	Stormwater management	Yes
<b>7.10</b>	Essential Services	Yes

The proposed toilet facility is within zone SP2 with part of the park and access also in zone RU5.

### **Objectives of the SP2 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.*

### **Objectives of the RU5 Zone**

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To maintain and enhance the unique character of each of the rural villages.*
- *To encourage and promote opportunities for population and local employment growth commensurate with available services and infrastructure capacity.*
- *To minimise the impact of non-residential uses and ensure those uses are compatible with surrounding residential development.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposed facility within an existing public park is generally consistent with the above.

### Clause 5.10 Heritage Conservation

The park within the Rydal Heritage Conservation Area and is also close to the northern extremity of the State Heritage Register listing curtilage. Adjacent to the land to the south of the site is the State heritage listed Rydal Railway Station precinct as well as other items of local heritage significance on the opposite side of Bathurst Street.

The applicant has obtained advice from Council's heritage advisor with regard to the external design and siting of the proposed facility which has been designed to compliment the surrounding heritage significance of the area. The building is proposed to have an open shade shelter format with overhanging eaves and trellis. The open frame and trellis reinforce its visual permeability and allows planting around the building to soften the built form. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.

The new paving will match the existing brick footpaths, with the ramp to be designed to fit the dominant character of the park. Where possible the retaining walls will be constructed utilising recycled railway sleepers.

The development has further been located to have a greater setback from Bathurst Street to ensure that the building does not intrude into the established historic streetscape. The development is also proposed to be located at a lower elevation to increase the visual separate from surrounding heritage items.

Additional landscaping will be utilised to screen the building, with the size and scale of the building to be minor (i.e. 11m<sup>2</sup> in floor area). The continuity use of the area as a park will remain.

As such the development would not compromise any archaeological resources and with the aspects detailed above, the development would have minimal heritage impacts.

### Clause 7.1 Earthworks

Minor earthworks are proposed for the development with retaining walls proposed for the new ramp along the embankment that transverses Bathurst Street. This is considered adequate for the development.

### Clause 7.3 Stormwater Management

Due to the small scale and footprint of the proposal, there are no significant issues with stormwater management.

### Clause 7.10 Essential Services

The development has adequate connectivity to essential services.

## ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

SEPP (Transport and Infrastructure) 2021 – Compliance Check		
Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements		
2.97	Development adjacent to rail corridors	Yes

The development was referred to Transport for NSW as the responsible government agency for the Main Western Railway. The proposal is supported by Transport for NSW subject to conditions of approval as specified in their letter of response dated 19 May 2022 (see attached).

## ***State Environmental Planning Policy (Resilience and Hazards) 2021***

Chapter 4 of this SEPP requires Council to consider potential contamination of the land and whether any remediation works are required to make it suitable for the proposed development. Council is satisfied that the land is not contaminated based on historic land uses which comprise garden areas associated with the former station master's residence.

### 5.3.2 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.

### 5.3.3 Any Development Control Plan

## **Lithgow Council's Development Control Plan 2021**

Development Control	Assessment Comments
<b>Chapter 2 – Site Requirements</b>	
<b>2.2 Site Analysis, Local Character &amp; Context</b>	
2.2.1 Site Selection	The development is permissible in the zone and complies with the zone objectives. The development is consistent with surrounding landuses being for a mixture of uses such as the railway track and station, community park and residential uses.
2.2.2 Site Analysis & Development Response	The property is heritage listed under the Lithgow LEP 2014. Refer to comments later in this report in this regard.



	<p>The property is bushfire prone however given that the use is non habitable, bushfire requirements are not applicable.</p> <p>The development is for an exeloo toilet and retaining wall. As such the development will have minimal impact to the topography of the land or streetscape/character. Refer to heritage comments for more details.</p>
2.2.3 Local Character & Context	<p>The development is proposed to be located within an existing streetscape surrounded by a mixture of development uses. The development is not expected to have any impact to the character and context of the area as per the heritage report.</p>
2.2.4 Visually Prominent Sites	<p>The development has been designed to blend into the existing landform and will have minimal visual impacts to surrounding developments. The development is located on a lower elevation to Bathurst Street as well as having a greater setback to limit the visual impact to the streetscape. Landscaping is also proposed around the building to soften the visual impacts.</p>
2.2.5 Materials	<p>The unit proposed to be installed is a Saturn Platinum Single Accessible Heritage style public toilet. It has a gable roof, galvanized steel support posts, with decorative detail between the eight post and a privacy screen at both the front and rear. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.</p>
<b>2.3 Slope Response, Earthworks &amp; Retaining Walls</b>	
2.3.1 Slope & Site Design	<p>Minor earthworks are proposed for the development with retaining walls proposed for the new ramp along the embankment that transverses Bathurst Street. This is adequate for the development.</p>
<b>2.4 Stormwater Management</b>	<p>There are no alterations to the existing drainage system on the site. Rainwater from the facility will be discharged</p>

	<p>directly to the ground. The annual rainfall and minimal roof catchment area are not envisaged to create or negatively impact the current natural water absorption activities on site.</p> <p>Stormwater drainage during construction will be managed by all stormwater inlets and grated sumps within the construction footprint will be fitted with approved stormwater sediment filtering devices.</p>
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Development Control	Assessment Comments
<b>Chapter 4 – Heritage &amp; Cultural Conservation</b>	
<b>4.3 General Controls - Development of Heritage Items/Places &amp; within Heritage Conservation Areas</b>	
4.3.2 Design and Character	<p>The development has been designed to complement the surrounding heritage significance of the area. The building is proposed to have an open shade shelter format with overhanging eaves and trellis. The open frame and trellis reinforce its visual permeability and allows planting around the building to soften the built form. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.</p> <p>The new paving will match the existing brick footpaths, with the ramp to be designed to fit the dominant character of the park. Where possible the retaining walls will be constructed utilising recycled railway sleepers.</p>
4.3.3 Scale and Form	<p>Additional landscaping will be utilised to screen the building, with the size and scale of the building to be minor (i.e. 11m<sup>2</sup> in floor area). The continuity use of the area as a park will remain and not be impacted upon.</p>
4.3.4 Siting and Setbacks	<p>A fence is located between the park and the railway track, with the development proposed to have a setback of approximately 2m from the fence line. Given the size of the development being only 11m<sup>2</sup> in floor area, it is expected that the development will have no impact to the rail corridor. The setbacks</p>

	are considered adequate for the development as no specific controls are applicable for this type of development.
4.3.5 Detailing	Decorative detail is proposed to be incorporated into the building's external façade between the eight post and a privacy screen at both the front and rear.
4.3.6 Materials, Finishes and Colour Schemes	The unit proposed to be installed is a Saturn Platinum Single Accessible Heritage style public toilet. It has a gable roof, galvanized steel support posts, with decorative detail between the eight post and a privacy screen at both the front and rear. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.
4.3.7 Roofs and Chimneys	The development proposes a gable roof, similar to the surrounding development structures on the property.
4.3.11 Access and Mobility	To enable adequate access to the facility, a retaining wall, concrete ramp and path is also proposed to be installed. The development will therefore have no impact to the heritage fabric of the adjoining heritage building.
<b>4.4. Specific Controls - Heritage Conservation Areas</b>	
<b>4.4.12. Rydal Heritage Conservation Area "C12"</b>	
1) Street alignment and setbacks	The development complies with the DCP as the development is proposed to be setback in an existing landscaped garden setting. Additional landscaping is also proposed to visually screen the development.
2) Height, form and scale	The development consists of one storey in height (3.179m). Given that the development is located on a lower elevation from Bathurst Street and the development is setback from the road and adjoining properties, the height, form and scale of the development is considered satisfactory.
3) Facades	The development has been designed to complement the surrounding heritage significance of the area. The building is

	proposed to have an open shade shelter format with overhanging eaves and trellis. The open frame and trellis reinforce its visual permeability and allows planting around the building to soften the built form. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.
4) Shopfronts and interior fit out	NA
5) Fences	NA- the existing fences will remain on the property.
6) Kerbing and street elements	NA
7) Outbuildings and ancillary structures	NA
8) Alterations and Additions	NA
9) Infill Development	The development does not require cut and fill and follows existing development patterns.
10) Landscape	Majority of the landscape will remain on the property with additional landscaping proposed. This will suit the surrounding area.

5.3.4 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?

No.

5.3.5 Any matters prescribed by the regulations that apply to the land

Nil.

5.3.6 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 land contains a public park known as Greg Featherstone Park, a community passive space north of the heritage listed railway station. The property adjoins the Main Western Railway Line to the east and south and Bathurst Street to the west. Beyond Bathurst Street is a mixture of residential buildings, the Hotel Alexander, The Rydal Union Church and the Rydal Mount Conference Centre (on the former public school site).

The development has been designed to blend into the existing landform and will have minimal visual impacts to surrounding developments. The development is located on a lower elevation to Bathurst Street as well as having a greater setback to limit the visual impact to the streetscape. Landscaping is also proposed around the building to soften the visual impacts.

**Services:** The development will connect to reticulated water services that are located within the street. A **Section 68 Application** was submitted with the application for an onsite waste disposal system.

The development application has been referred to Council's water and sewer officer for comment and Council's Building Officer for assessment of the onsite waste disposal system.

Additionally, there is access to electricity services nearby.

**Context and Setting:** The development is located within an existing streetscape surrounded by a mixture of development uses. The development is not expected to have any impact to the character and context of the area as per the heritage report.

**Access:** The proposal will not generate any additional traffic, however, the unit will require regular servicing by equipment provided on a vehicle (septic pump out/cleansing). There is adequate on street parking for this to occur, without impacting adjacent neighbours.

Improved pedestrian amenity including access paths will form part of the project.

A ramp providing accessibility will be compliant with AS1428 will be installed. This will enable access from the road level to the amenity.

**Heritage:** The park is within the Rydal Heritage Conservation Area and the site for the proposed public amenities are located at the northern extremity of the State Heritage Register listing curtilage.

Adjacent to the land to the south of the site, is the State Heritage listed Rydal Railway Station precinct. The heritage assessment indicates that the park was originally part of the Station Master's Garden or paddock with no elements of railway infrastructure, structures or buildings.

The development has been designed to complement the surrounding heritage significance of the area. The building will have an open shade shelter format with overhanging eaves and trellis. The open frame and trellis reinforce its visual permeability and allows planting around the building to soften the built form. The external elements such as timberwork, materials, finishes (decorative design work) and colours have been carefully considered to suit the existing structures.

The new paving will match the existing brick footpaths, with the ramp to be designed to fit the dominant character of the park. Where possible the retaining walls will be constructed utilising recycled railway sleepers.

The development has further been located to have a greater setback from Bathurst Street to ensure that the building does not intrude into the established historic streetscape. The development is also proposed to be located at a lower elevation to increase the visual separate from surrounding heritage items.

Additional landscaping will be utilised to screen the building, with the size and scale of the building to be minor (i.e. 11m<sup>2</sup> in floor area). The continuity use of the area as a park will remain.

As such the development would not compromise any archaeological resources and with the aspects detailed above, the development would have minimal heritage impacts.

**Social and Economic Impact:** Generally, positive social and economic impacts are expected through the provision of additional public infrastructure.

**Air and Microclimate:** The proposal will not cause, or be affected by, air or noise emissions that will negatively impact adjoining or adjacent properties.

The wastewater management system does not require any odour control, however, this will be monitored and any mitigation measures installed.

#### 5.3.7 The Suitability of the site for the development

The facility is proposed within a public park at the centre of the Rydal village. Ordinarily, such infrastructure would be provided as development without consent as essential and ancillary facilities typically associated with a public park.

#### 5.3.8 Any submissions made in accordance with this Act or the Regulations

No public submissions received.

#### 5.3.9 The public interest

Under the provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021* the works do not require development consent and can be undertaken by Council as a public authority.

The proposed toilet facility is typical of standard infrastructure provided within a public park and is not contrary to any environmental planning instrument or other applicable regulatory provisions. Therefore, the approval and installation of the toilet facility is considered in the public interest.

## **6. DISCUSSION AND CONCLUSIONS**

The proposed toilet facility can be undertaken as development without consent and does not require approval under Part 4 of the *Environmental Planning and Assessment Act 1979*.

The proposal is generally consistent with relevant provisions of applicable environmental planning instruments and is supported. If approval is granted under Part 4 of the *Environmental Planning and Assessment Act 1979*, the consent conditions in Schedule A are to be applied.



## 7. ATTACHMENTS

Schedule A- Conditions of consent.

Schedule B- Letter of support and conditions – Transport for NSW

## 8. RECOMMENDATION

**THAT** development application DA 045/22 is approved subject to conditions set out in Schedule A.

Lachlan Sims  
Team Leader Development  
10/06/2022



### REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- 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 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.

#### **GENERAL**

1. **Approved plans and documentation**

The development is to be undertaken in accordance with the elevations, floor plan and other specifications stamped and attached to this consent except as modified by Council and/or any conditions of this consent.

2. **Building code compliance**

Any building work undertaken under consent must be carried out in accordance with the requirements of the Building Code of Australia.

#### **TRANSPORT FOR NSW REQUIREMENTS**

3. **Prior to issue of construction certificate**

Prior to the issue of a Construction Certificate, the Applicant is to address the conditions of consent imposed by Transport for NSW on 19 May 2022 as attached to this consent.

#### **CONDITIONS APPLYING BEFORE WORKS COMMENCE**

4. **Certification**

Prior to commencing any construction works, the following requirements of the *Environmental Planning and Assessment Act 1979* are to be complied with:

- a) A principal certifier is appointed in accordance with section 6.6(1) of the Act, and
- b) If the principal certifier is not Council, Council has been notified of the appointment of the principal certifier no later than 2 days before building work commences in accordance with section 6.6(2) of the Act, and
- c) A construction certificate has been issued for the building works in accordance with section 6.7 of the Act, and
- a) Council has been given at least 2 days' notice of the intention to commence building works in accordance with section 6.6(2)(e) of the Act.

5. **Signage**

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out—

- (a) showing the name, address and telephone number of the principal certifier for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**6. Protection of adjoining areas**

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin, and must be kept in place until after the completion of works, if the works—

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

*Note. Clauses 2.67 and 2.68 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.*

**7. Toilet facilities**

- (1) Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must—
  - (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
  - (c) be a temporary chemical closet approved under the Local Government Act 1993.

**8. Garbage receptacle**

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

**9. Run-off and erosion controls**

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by—

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

**CONDITIONS APPLYING DURING THE WORKS**

*Note. The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2008 contain provisions relating to noise.*

**10. Standard hours for construction**

Construction may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.

11. **Works outside standard hours for construction**

- (1) Work may be carried out outside the standard hours for construction if the work only generates noise that is—
  - (a) no louder than 5 dB(A) above the rating background level at any adjoining residence in accordance with the Interim Construction Noise Guideline (ISBN 978 1 74232 217 9) published by the Department of Environment and Climate Change NSW in July 2009, and
  - (b) no louder than the noise management levels specified in Table 3 of that guideline at other sensitive receivers.
- (2) Work may be carried out outside the standard hours for construction—
  - (a) for the delivery of materials—if prior approval has been obtained from the NSW Police Force or any other relevant public authority, or
  - (b) in an emergency, to avoid the loss of lives or property or to prevent environmental harm.

12. **Compliance with plans**

Works must be carried out in accordance with the plans and specifications to which this development consent relates.

13. **Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Copies of receipts stating the following must be given to the principal certifying authority—
  - (a) the place to which waste materials were transported,
  - (b) the name of the contractor transporting the materials,
  - (c) the quantity of materials transported off-site and recycled or disposed of.
- (4) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (5) During construction—
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (6) At the completion of the works, the work site must be left clear of waste and debris.

**Earthworks, retaining walls and structural support**

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development)—
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and

- (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (2) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX]), published in July 2012 by Safe Work Australia.

14. **Archaeology discovered during excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work—

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

*Note. Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the Heritage Act 1997 may be required before further the work can continue.*

15. **Aboriginal objects discovered during excavation**

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—

- (a) all excavation or disturbance of the area must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

*Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.*

**CONDITIONS APPLYING PRIOR TO OCCUPATION/USE**

16. **Occupation Certificate**

Prior to the use or occupation of the approved development, all conditions of this consent are to be satisfied, a final inspection undertaken by the Principal Certifying Authority and an Occupation Certificate issued.

# Schedule B- Transport for NSW Approval

Transport for NSW



General Manager  
Lithgow City Council  
PO Box 19  
Lithgow NSW 2790

**Attention: Lauren Stevens**

Dear Ms. Stevens

**DA045/22 – BATHURST ST RYDAL**

Thank you for requesting Transport for NSW (TfNSW) to comment on the subject development application (DA) via the NSW Planning Portal (CNR-36367) in accordance with Section 2.97 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

TfNSW is the Rail Authority of the Country Regional Network (CRN) across NSW and the Transport Asset Holding Entity (TAHE) is a State – owned corporation that holds rail property assets and rail infrastructure, including the CRN. As of 29 January 2022, UGL Regional Linx (UGLRL) has been appointed by TfNSW to manage the CRN and is responsible for reviewing and providing comments on this development to ensure potential impacts to rail operations (current and future) is considered and addressed.

The DA seeks approval for installation of an exceloo, an on-site septic tank, associated access ramp and retaining and landscaping on the land that is currently occupied by Lithgow City Council in accordance with an agreement and the land is within the operational rail corridor from Wallerawang to Tarana. The documents exhibited in support of the subject proposal has been reviewed and recommended conditions of consent is provided under **TAB A**.

If you require further information, please contact Serena Li, Transport Planner via email at [development@transport.nsw.gov.au](mailto:development@transport.nsw.gov.au) for assistance.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mark Ozinga".

19/5/2022

**Mark Ozinga**  
Senior Manager Land Use Planning & Development  
Customer Strategy & Technology  
Customer Strategy and Technology

CD22/01628



**TAB A Recommended Conditions of Consent for DA 045/22**

**Prior to the issue of a Construction Certificate**

**Survey**

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 UGL Regional Linx (UGLRL) on behalf of TfNSW.

**Compliance with Lease**

Prior to issue of a construction certificate, the Applicant must obtain approval from UGLRL on behalf of TfNSW and satisfy conditions set out in the existing lease as applicable. For further information, contact Andrew Burton via [andrew.burton@uglregionallinx.com.au](mailto:andrew.burton@uglregionallinx.com.au)

**Contamination of Rail Land**

Prior to issue of a Construction Certificate, the Applicant must prepare and provide UGLRL on behalf of TfNSW with a Preliminary Site Investigation on the project site identifying the existing contaminants and developing and implementing remediation measures if required, for approval from UGLRL on behalf of TfNSW. For further information, contact Andrew Burton via [andrew.burton@uglregionallinx.com.au](mailto:andrew.burton@uglregionallinx.com.au)

**Construction**

If required by UGLRL on behalf of TfNSW, 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 UGLRL for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until such time as written confirmation has been received from UGLRL confirming that this condition has been satisfied.

**Stormwater Management**

Prior to issue of Construction Certificate, the Applicant must obtain written approval from UGLRL on behalf of TfNSW to its stormwater management plan to confirm that pre-development and post development flows remain unchanged to ensure that the development has no adverse impacts on the rail corridor. For further information, contact Andrew Burton via [andrew.burton@uglregionallinx.com.au](mailto:andrew.burton@uglregionallinx.com.au)

### **Cranes and Equipment**

1. In the event cranes will be used in the air space over the rail corridor, the Applicant must submit an application to UGLRL for approval of TAHE prior to any use of cranes and equipment (Equipment) in the air space over the rail corridor.
2. The Applicant is required to provide a safety assessment of the works necessary for the development assessing any potential impact or intrusion on the Danger Zone (as defined in the UGLRL Network Rules and Procedures and that any works are undertaken by a qualified Protection Officer.
3. The use of Equipment must be in accordance with the AS 2550 series of Australian Standards, Cranes, Hoist and Winches, including AS2550 15-1994 Cranes – Safe Use - Concrete Placing Equipment.

The Applicant is advised to contact UGLRL's Third party works team via [thirdpartyworks@uglregionallinx.com.au](mailto:thirdpartyworks@uglregionallinx.com.au) for more information

### **Access to the rail land other than the premises**

No work is permitted within the rail corridor, or any easements which benefit TfNSW/TAHE, at any time other than the premises, unless the prior approval of, or an agreement with, TfNSW/TAHE has been obtained by the applicant. The Principal Certifying Authority is not to issue the Construction Certificate until such time as written confirmation has been received from UGLRL on behalf of TfNSW confirming that this condition has been satisfied.

### **Prior to commencement of works**

#### **Fencing**

Prior to the commencement of any works appropriate fencing must be in place along the leased premises to prevent unauthorised access during at all times. Details of the type of fencing and the method of erection are to be to the satisfaction of UGLRL on behalf of TfNSW prior to the fencing work being undertaken.

#### **Lighting, external finishes and design**

Prior to commencing any works described in the Proposal, 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 and reflectivity to the satisfaction of UGLRL on behalf of TfNSW.