

# **DEVELOPMENT ASSESSMENT REPORT – DA213/21 - CHANGE OF USE - HOTEL TO BOARDING HOUSE AND COMMERCIAL TENANCIES - Lot 1 DP 900325, 69 Main Street , Lithgow**

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## **1. PROPOSAL**

Development application DA213/21 has been lodged by Bruce Gray C/- Minto Planning Services (the applicant) on behalf of the Hanate Foundation Limited (the landowner). The application seeks development consent for the change of use of an existing hotel premises (formerly the Grand Central Hotel) to a mixed use development containing a boarding house (supportive accommodation) and commercial tenancies. The key components of the proposal are:

- Alterations to the ground floor of the building to create 6 separate commercial tenancies. This includes the two existing shops at the southern end of the site facing Eskbank Street as well as the former bar and entertainment areas of the hotel.
- Change of use of the former restaurant area of the ground floor to the communal area and shared kitchen for the boarding house.
- Alterations and additions to provide improved access including a lift and new centralised lobby off Eskbank Street for access to all levels.
- Conversion of first and second floors (former hotel accommodation space) to a 17-room boarding house providing supportive accommodation.

The boarding house use will occupy part of the ground floor and all of the first and second floors of the former hotel. The boarding house is to be operated by Providential Homes, a not-for-profit organisation providing supported temporary accommodation at multiple locations across New South Wales. The boarding house accommodation will comprise:

- Supported temporary accommodation for singles, couples and families. Residents of this accommodation are provided support and counselling, food packs, provision of fresh home cooked meals and cleaning services, and
- Transitional accommodation for residents requiring additional support. This provides a longer-term accommodation service and is subsidised housing based on the resident's affordability. The resident is provided support and guidance in finding suitable permanent, private rental accommodation in the community during their stay on the site.

Alterations and additions are proposed to facilitate the use and upgrade of the existing building to contemporary residential accommodation standards. This includes the provision of a new access lobby off Eskbank Street and the provision of a lift to provide access to each floor. The first floor of the building will provide supportive accommodation in 9 rooms (8 of which include a kitchenette). The first floor will also include a communal living area, laundry and unisex, shared bathrooms (including one with access for disabled persons).

The second-floor supportive accommodation includes 8 rooms (7 with kitchenette and ensuite). This floor also includes a communal living area and unisex shared bathroom.

The proposal includes alterations to the existing internal building layout on each floor to facilitate the boarding house use and ensure access, mobility and amenity is achieved in accordance with contemporary design standards. These works have been minimised where possible in the design to reduce the impacts on the heritage character of the former hotel building.

The proposal to use part of the building as a boarding house is supported by a draft Plan of Management submitted in support of the application which will be managed and enforced by an on-site manager and support staff.

## 2. SUMMARY

To assess and recommend determination of DA213/21 - with a recommendation for approval subject to conditions.

## 3. LOCATION OF THE PROPOSAL

Legal Description : Lot 1 DP 900325  
Property Address : 69 Main Street LITHGOW NSW 2790

## 4. ZONING

The subject land is within the B2 Local Centre zone under the *Lithgow Local Environmental Plan 2014* as depicted in the map extract below:



## 5. PERMISSIBILITY

The development application seeks consent for the change of use of the existing hotel premises to commercial premises (ground floor) and boarding house (across all levels). The existing commercial spaces/shops at the southern end of the site remain unchanged.

Under the *Lithgow Local Environmental Plan 2014* (LEP) the proposed uses are defined as:

*boarding house means a building that:*

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

*but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

and

*commercial premises means any of the following—*

- (a) business premises,*
- (b) office premises,*
- (c) retail premises.*

The above definition of boarding house was changed in the LEP on 26 November 2021 in conjunction with the commencement of *State Environmental Planning Policy (Housing) 2021*. Development application 213/21 was lodged on 13 October 2021 and is subject to the definition above which was in force at the time of lodgement. For the purposes of the assessment of this application, the above definition is applied.

Both the above land uses are permitted with consent in the B2 Local Centre zone under the LEP provisions.

The applicant is seeking to rely on the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) as in force at the time of lodgement (13 October 2021). The ARH SEPP was repealed on 25 November 2021, being replaced by new provisions in *State Environmental Planning Policy (Housing) 2021*. For the purposes of the assessment and determination of DA 213/21, the provisions of the ARH SEPP as in force at the time of lodgement are relevant.

Specifically, the application relies on the provisions of Division 3 of Part 2 of the ARH SEPP which permits with consent a boarding house on land zoned B2 Local Centre. For consent to be granted under the ARH SEPP provisions, compliance with the other relevant standards and requirements in the ARH SEPP are required. This aspect of the proposal is addressed separately in this report.

## 5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)

### **Lithgow Community Participation Plan**

The development application was subject to public exhibition in accordance with the Lithgow Community Participation Plan from 25 October 2021 to 17 November 2021. Adjoining landowners were notified of the application and invited to make submissions. No submissions were received during the public exhibition period.

## 5.2 FINANCIAL IMPLICATIONS

### **Section 94A Development Contributions Plan 2015**

The Section 94A Development Contributions Plan 2015 is applicable to the development with a 1% levy to be paid as a contribution towards public infrastructure. The development application identifies an estimated cost of \$1,553,200.00. If approved, the development will be subject to the payment of a contribution of \$15,532.00 as a condition of consent prior to the issue of a construction certificate.

### **Development Servicing Plan for Water Supply and Sewerage**

The development proposal has been assessed by Council's Water and Wastewater officers. They have advised that no contributions are payable under the Development Servicing Plan due to there being no significant change to the level of demand on water and wastewater services.

## 5.3 LEGAL IMPLICATIONS

### ***Coal Mine Subsidence Compensation Act 2017***

The application has been referred to Subsidence Advisory NSW as the responsible authority for the administration of the *Coal Mine Subsidence Compensation Act 2017*. General Terms of Approval were granted to the application by Subsidence Advisory on 13 May 2022 and are included in the recommended consent conditions.

### ***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>	B2 Local Centre	Yes
<b>5.10</b>	Heritage conservation	Yes
<b>7.3</b>	Stormwater management	Yes
<b>7.9</b>	Active street frontages	Yes
<b>7.10</b>	Essential Services	Yes

The development application seeks consent to change the use of the site from a hotel to a mixed use development that includes ground floor commercial premises and residential accommodation in the form of a boarding house on part of the ground floor and on the full extent of the first and second floors.

The proposed uses (commercial premises and boarding house) are permitted with consent in the B2 zone under the provisions of the *Lithgow Local Environmental Plan 2014* (LEP). The objectives of the B2 zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To maintain the built integrity of the area by enabling development that is sympathetic to the heritage character and significance of the area and surrounding streetscapes and features.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposed uses are consistent with the B2 zone objectives.

Although the proposed use of the site as a boarding house is permitted with consent under the LEP provisions, the application seeks consent under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* as in force at the time the development application was lodged. This aspect of the proposal is addressed in further detail separately below.

#### Clause 5.10 Heritage Conservation

The site of the proposed development is listed as an item of local heritage significance in Schedule 5 of the LEP (being the former Grand Central Hotel). The site is also within the Lithgow Main Street Heritage Conservation Area. Because of this, the requirements of clause 5.10 of the LEP are a relevant consideration for this assessment. This clause requires development consent for any works involving the demolition or altering the exterior or making changes to the interior of a heritage item. Before granting consent, a consent authority must consider the effect of the proposed development on the heritage significance of the item and area.

The application is supported by a Statement of Heritage Impact and has been referred to Council's heritage advisor for comment. The assessment of the heritage advisor recommended further information to clarify the extent of works proposed and recommended conditional approval of the development. The additional information was requested of the applicant, and this has been provided to Council's satisfaction. The recommended draft conditions of consent attached include those recommended by the heritage advisor.

The works and new uses proposed will not unreasonably impact on the heritage character of the building or the heritage conservation area. The works will enable the adaptive reuse of the building in a form and manner that is generally compatible with the building's heritage character and respects its historical uses. Subject to the recommended consent conditions, no objection is raised to the proposal and the objectives of this clause can be satisfied.

### Clause 7.3 Stormwater Management

This clause is applicable to the development being in a business zone (B2 Local Centre). The site is currently fully developed and covered with hard surfaces. No significant changes to the exterior built form and existing permeable surfaces will result from the development and the existing stormwater management regime for the site will be maintained.

### Clause 7.9 Active Street Frontages

The land is within an area of "active street frontage" on the Active Street Frontages Map. The proposed change of use is consistent with the requirements of this clause and the development will maintain and enhance the existing active street frontages of the site and will attract pedestrian traffic along the ground floor street frontages of the site.

### Clause 7.10 Essential Services

The site has connections to essential services which are sufficient to accommodate the demand generated by the new uses proposed.

### ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

*State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) was repealed on 26 November 2021 but was in force at the time of lodgement of the development application (13 October 2021). Based on this, the application is subject to the provisions of the repealed ARHSEPP.

The development application seeks consent to establish a boarding house on part of the site (part of the ground floor and over the entire first and second floors) under Division 3 of the ARHSEPP. These provisions permit a boarding house with consent on any land zoned B2 Local Centre.

The ARHSEPP includes development standards that cannot be used as grounds for refusal where compliance with those standards are met. These standards are outlined in the table below.

<b>SEPP Standard</b>	<b>SEPP Requirement</b>	<b>Development Proposal</b>
Floor space ratio	Not more than existing maximum	Not applicable – the Lithgow LEP does not apply floor space ratio standards
Building height	Not more than maximum building height permitted	Not applicable – the Lithgow LEP does not apply a maximum building height standard
Landscaped area	Front setback is compatible with streetscape	Complies – no change to the existing streetscape proposed
Solar access	Communal living area receives a minimum 3 hours direct sunlight	The ground level communal area is oriented towards the

	between 9am and 3pm in mid-winter	north and receives adequate solar access. While strict compliance may not be possible, the SEPP requirement is a "do not refuse" standard and can be varied at Council's discretion. The solar access of the development is supported.
Private open space	Private open space is to be provided with one 20 square metre area as well as one 8 square metre area for a boarding house manager	Outdoor private open space is not provided; however, a number of internal common areas are proposed to provide for a range of passive uses. As a "do not refuse" standard, this can be varied at Council's discretion. The private open space provision for the development in this instance is supported.
Parking	For a social housing provider in an accessible area, at least 0.2 spaces per boarding room is provided	The site currently provides no off-street parking and none is proposed. As a "do not refuse" standard, this can be varied at Council's discretion. The private open space provision for the development in this instance is supported.
Accommodation size	Each boarding room has a gross floor area of at least 12 sqm for a single room and 16 sqm in other cases	The rooms range in size from 9.3 sqm to 18 sqm and are of adequate size for the development proposed. As a "do not refuse" standard, this can be varied at Council's discretion. The minor non-compliance with this standard is supported.

Clause 30 of the SEPP specifies a number of development standards boarding houses must comply with. These are addressed in the table below.

<b>Clause 30 Standard</b>	<b>Development Proposal</b>
If a boarding house has 5 or more boarding rooms, at least one communal living room is provided.	17 boarding rooms are proposed with 3 communal living areas. Compliance is achieved.

No boarding room will have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25 square metres	The largest boarding room proposed has a gross floor area of 18 square metres. Compliance is achieved.
No boarding room will be occupied by more than 2 adult lodgers	The maximum proposed occupancy is 1 adult lodger per boarding room. A draft Plan of Management is submitted in support of the application to address this. A consent condition will be imposed requiring a final Plan of Management be submitted to Council prior to the issue of a construction certificate reflecting this requirement. Compliance can be achieved.
Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	Communal kitchens and bathrooms are provided for residents. Some rooms have private bathrooms. Compliance is achieved.
If the boarding house has capacity for 20 or more lodgers, a boarding room or on-site dwelling will be provided for a boarding house manager	The proposal will accommodate up to 16 adult lodgers with provision for accompanying minors. Accommodation for an on-site boarding house manager/caretaker is provided. Compliance is achieved.
If the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.	The land is zoned B2 Local Centre being primarily for commercial purposes. Part of the ground floor (former restaurant/bistro) is to be used for common dining/kitchen area. Compliance is achieved.
At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms	As addressed in this report, no off-street parking is provided on site. If required, however, there is sufficient space on site for the storage of bicycles and parking for motorcycles in accordance with this requirement. Compliance is achieved.

Clause 30A of the ARHSEPP requires a consent authority to take into consideration whether the design of the development is compatible with the character of the local area. The proposed development occupies parts of the former hotel premises and will provide for a much-needed form of residential accommodation in the Lithgow area. The use and proposed alterations to the building will not significantly affect the character of the area nor will they result in any unreasonable negative impacts on the locality. In consideration of the above, the use of the premises for boarding house accommodation is expected to be compatible with and in harmony with the surrounds.

The development application also seeks consent under Division 4 of Part 2 of the ARHSEPP for the use of the boarding house for supportive accommodation.

*supportive accommodation means the use of an existing building (being a residential flat building or boarding house) for the purposes of—*

- (a) the long term accommodation, in a separate dwelling or boarding room, of a person (such as former homeless person) who needs support services to be provided in the building, and*
- (b) any services in support of such a person, including but not limited to, medical services, counselling services or education and training services, and it may include the use of part of the building for the purposes of supervising, or providing administrative services in respect of, such a person.*

Under the provisions of the ARHSEPP, if the use of the site for a boarding house is approved, it may be used for supportive accommodation as defined above without consent.

The use of the site for a boarding house and supportive accommodation is supported and will provide accommodation that will meet the needs of disadvantaged persons in the community and provide for a type of residential accommodation currently in short supply.

The proposed development is consistent with the provisions of the ARHSEPP and is recommended for approval.

***State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011***

The provisions of this SEPP apply. This SEPP requires development to achieve a neutral or beneficial effect on water quality. Because the development is largely internal alterations and change of use, there is minimal to no impact on existing stormwater movement on the site and no significant changes to stormwater runoff or quality. In this regard, the requirement for a neutral or beneficial effect is achieved.

***State Environmental Planning Policy No 55—Remediation of Land***

This SEPP applies and requires the consideration of the potential contamination of the site and its suitability for the proposed development. The site contains a long-established hotel and commercial uses with no potential for significant contamination that would make the site unsuitable for the intended use. Based on this, the site is considered suitable, and the likelihood of contamination is low with no remediation works required.

**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 Development Control Plan 2021***

<b>Development Control</b>	<b>Assessment Comments</b>
<b>Chapter 2 – Site Requirements</b>	
<b>2.2 Site Analysis, Local Character &amp; Context</b>	
2.2.1 Site Selection	The proposed development is consistent with the site's character and context.
2.2.2 Site Analysis & Development Response	The proposed development is consistent with the site's character and context and will not result in any unreasonable land use conflict.
2.2.3 Local Character & Context	The proposed uses are generally compatible with the character of the site and locality. The uses are appropriate in the context of the site being located within the Lithgow town centre.
2.2.4 Visually Prominent Sites	No significant changes are proposed to the exterior of the building which occupies a prominent corner site in the context of the Lithgow town centre.
2.2.5 Materials	Minor alterations and additions to the building exterior are proposed, primarily to the rear of the site. The materials, colours and finishes proposed are compatible with the existing form of the site.
<b>2.5 Stormwater Management</b>	No significant changes to the existing stormwater management regime and infrastructure is proposed or required.
<b>2.6 Vehicle Access &amp; Parking</b>	
	<p>The site currently contains no off-street parking and none are proposed. An existing area at the rear of the site provides for the loading and unloading of vehicles and will be retained to service the development.</p> <p>The central location of the development in close proximity to extensive areas of public car parking</p>

	adequately provide for the parking demands of the development. The provision of car parking on-site is impractical and unnecessary in the circumstances.
<b>2.7 Pedestrian Access, Mobility &amp; Safety</b>	
2.7.1 Accessibility	The proposed alterations and additions to the site to facilitate the proposal include the provision of full access to all levels and all parts of the development.
<b>2.8 Safer By Design (Crime Prevention)</b>	
2.8.1 Safety by Design	<p>The principles of crime prevention through environmental design (CPTED) have been considered in the assessment of this application. The proposed development changes the use of the premises from a hotel to commercial tenancies and boarding house. Improved accessibility, surveillance and security measures will be implemented on the site. The renovated and additional commercial tenancies on the ground floor will improve the interaction of the site to the street and provide for additional casual surveillance. Improved access and entrances to the building and to the upper levels will also be provided with secured access to the boarding house accommodation proposed. During daytime hours, the boarding house will be managed by on-site staff with an on-site manager present after hours. These details are provided in a draft Plan of Management for the boarding house which will form part of the development consent if approval is granted. The draft Plan of Management adequately provides for the protection of residents of the boarding house as well as providing a regulatory framework for the management of risk and anti-social behaviour. The draft Plan of Management will be finalised for the development as a condition of consent.</p>

<b>Development Control</b>	<b>Assessment Comments</b>
<b>Chapter 3 – Natural Environment &amp; Hazards</b>	
<b>3.7 Mine Subsidence Risk</b>	
	The site is within the Lithgow Mine Subsidence District. The development has been granted General Terms of Approval by Subsidence Advisory NSW in relation to mine subsidence risk.

<b>Development Control</b>	<b>Assessment Comments</b>
<b>Chapter 4 – Heritage &amp; Cultural Conservation</b>	
<b>4.3 Development of Heritage Items</b>	
4.3.2 Design and Character	The works proposed in the development largely take place within the building with some minor alterations and additions to the ground floor level and at the rear of the site (to facilitate access and a new lift). The works proposed are compatible with the heritage item and do not significantly alter its current presentation to the street and its context in the Main Street precinct.
4.3.3 Scale and Form	No change to the scale of the building is proposed. Existing form is retained with minor alterations and additions, primarily at the rear of the site, to facilitate improved access.
4.3.4 Siting and Setbacks	No changes to existing building siting and setbacks proposed.
4.3.5 Detailing	Generally, existing detailing and heritage features are retained or are unchanged.
4.3.6 Materials, Finishes and Colour Schemes	The existing materials, finishes and colour schemes are retained and respected.
4.3.7 Roofs and Chimneys	No changes proposed.
4.3.8 Verandahs and Balconies	No changes proposed.
4.3.9 Garages, Carports, Car Spaces and Driveways	Not applicable

4.3.10 Fences	Not applicable
4.3.11 Gardens, Garden Elements and Swimming Pools	Not applicable
4.3.12 Access and Mobility	Changes are proposed to the built form to enable improved access to the building. A new lift shaft is proposed at the rear of the building which has been designed to appropriately integrate with the existing built form and in sympathy with existing colours, materials and finishes.
4.3.12 Service and New Technologies	New services and technology improvements are proposed generally in sympathy with the heritage character.
<b>4.5 Specific Development Controls for Heritage Conservation Areas</b>	
<i>Lithgow Main Street Heritage Conservation Area</i>	As detailed above and in the Heritage Impact Statement submitted in support of the DA, the proposal is consistent with and sympathetic to the heritage character of Main Street. No significant changes are proposed to the external built form that will result in detrimental impacts on heritage character. The presentation of the former Grand Central Hotel building to Main Street and Eskbank Street will be largely unchanged.

<b>Development Control</b>	<b>Assessment Comments</b>
<b>Chapter 7 – Commercial, Community &amp; Industrial Uses (&amp; Advertising &amp; Signage for all relevant uses)</b>	
<b>7.2 General Controls</b>	
7.2.1 Site Analysis & Potential Land Use Conflicts	Acceptable – see above.
7.2.2 Open (Outdoor) Storage, Utility, Waste & Service Areas	Not applicable. Existing facilities adequate and will be retained.
7.2.3 Landscaping & Tree Protection	Not applicable. The site has no landscaping.
7.2.4 Fencing	Not applicable
7.2.5 Ancillary Dwelling(s)	Not applicable

<b>7.4 Commercial &amp; Community Uses</b>	
7.4.1 Key Business Precinct Character Statements	The proposal is consistent and compatible with the character of the Lithgow Central Business District.
7.4.2 Building Setbacks (General)	No change to existing setbacks proposed.
7.4.3 Setbacks – Zone B2 Local Centre	No changes to existing setbacks proposed.
7.4.4 Setbacks – Zone RU5 Village	Not applicable
7.4.5 Setbacks – Other Business Zones or Areas	Not applicable
7.4.6 Building Height, Bulk & Form	No change to existing building height, bulk and form proposed.
7.4.7 Building Design, Articulation & Facades	No significant change proposed.
7.4.8 Structures over Public Footpaths/Roads (Awnings & Balconies)	Not applicable.
7.4.9 Food Premises	Not applicable.

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

Minor demolition works are proposed and are required to comply with Australian Standard 2601-2001: The Demolition of Structures. Consent conditions will be imposed to require this should approval be granted.

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

**Context and Setting:** The site is centrally located within the Lithgow Central Business District and is surrounded primarily by other commercial uses. The proposal is compatible with these uses and will complement the range of services and infrastructure provided to service the Lithgow community. The proposed development will not unreasonably impact on surrounding land uses and is appropriate in the context and setting of the area.

**Access:** The site is highly accessible with proposed improvements to internal access proposed.

**Heritage:** The development takes place within an item of environmental heritage (the former Grand Central Hotel) which is listed as an item of local significance in the LEP. The application has been referred to Council's heritage advisor who has inspected the site and provided comments. In general, the proposal is supported from a heritage perspective and is considered an acceptable adaptive re-use of the building. Additional information was requested from the applicant to clarify some issues identified in the initial assessment. This information has been provided and the proposal is recommended for approval subject to conditions including conditions recommended by the heritage advisor. These draft conditions are attached to this assessment report.

In summary, the additional conditional requirements as recommended in the heritage assessment are:

- A Conservation Management Strategy is to be prepared to guide conservation works prior to building works commencing. This document is to clarify and provide guidance to the following:
  - o Levels of significance of various level, spaces and existing building layout;
  - o Establish appropriate policies for the care, conservation and adaptive reuse;
  - o Provide for the investigation of concealed heritage fabric and options for conservation;
  - o Key elements and issues for consideration including the ground floor lobby facing Main Street, the central stair, the public circulation areas on the upper floors, original windows and doors (including remnant highlights on bedroom doors) and any undiscovered underlying finishes;
  - o The co-ordination of building services to minimise intrusion and unnecessary damage to existing heritage fabric;
  - o Avoiding unnecessary impacts on significant early elements such as the central stair, windows and doors to achieve accessibility and code compliance;
  - o The provision of a detailed schedule of conservation works to provide the basis and guidance for building and construction specifications.
- An archival record of the building in its existing state is to be prepared prior to works commencing.
- Existing fireplaces and mantelpieces proposed for removal/demolition are to be salvaged and stored on site to enable appropriate reuse.
- The presence of the former feature window at the lower half landing of the central stair is to be investigated with the window to be re-exposed and retained where appropriate.
- A detailed schedule of conservation works is to be prepared and submitted to Council prior to the issue of a construction certificate.
- Existing rendered signage on the building parapet is to be restored and retained.
- Any additional signage on the awning and on the street frontage is subject to separate development consent.

**Social and Economic Impact:** The proposal provides for additional housing options for the Lithgow community and meets a currently unmet need. In this regard, positive social benefits are expected through the provision of diverse housing options for more

vulnerable persons. In general, positive economic impacts are expected through the provision of new housing and commercial opportunities for Lithgow.

**Waste:** There are no significant issues with waste generation or waste management. Existing waste collection from the site will continue with storage and collection provided from the rear of the site.

**Noise and Vibration:** The development is not expected to result in any additional noise or vibration impacts that will negatively impact on the surrounding locality.

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

The site located within the Lithgow central business district and the proposed commercial uses and boarding house accommodation are considered suitable for the site and appropriate in its context.

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

The development application was placed on public exhibition from 25 October 2021 to 17 November 2021. Adjoining landowners were notified of the application and invited to make submissions. No submissions were received during the public exhibition period.

Referrals were made to Council's building officer and water and wastewater directorate with no objections raised subject to conditions of approval.

#### 5.3.9 The public interest

The proposal is consistent with the established land use planning controls for the site and the relevant development standards and development controls applicable to the development proposed. The uses proposed are permitted with consent on the land and will not impact unreasonably on the use and development of surrounding land. Based on this, approval of the development is considered in the public interest.

## **6. DISCUSSION AND CONCLUSIONS**

The proposal is compliant with all relevant provisions of applicable environmental planning instruments and regulatory policy. The proposal is unlikely to result in any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

## **7. ATTACHMENTS**

Schedule A- Conditions of consent.

## **8. RECOMMENDATION**

**THAT** development application DA 213/21 is approved subject to conditions set out in Schedule A.

Report prepared by: Lachlan Sims, Team Leader Development 31/05/2022

A handwritten signature in black ink, appearing to read 'Lachlan Sims', with a stylized flourish at the end.

## **REASONS FOR CONDITIONS**

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

- To ensure compliance with the terms of relevant environmental planning instruments.
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.

## Schedule A

### RECOMMENDED CONDITIONS OF CONSENT

#### GENERAL REQUIREMENTS

1. **Approved Development**

The development is to take place in accordance with documentation listed in the table below including all plans and documents containing Council's stamp and any associated documentation submitted with the application, except as modified in red by Council and/or by any conditions of this consent.

Document Description	Date	Prepared By
Plans and architectural drawings, Job Ref. 1380, Drawing Nos. DA01-DA12, Revision C	25/04/2022	Delve Design
Statement of Environmental Effects	September 2021	Minto Planning Services
Draft Plan of Management	No date	Applicant

2. **Building regulations**

Any building work approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

3. **External works and signage**

Existing external finishes and colours of the building above ground floor level are to be retained. No external signage is approved by this consent. The existing rendered lettering on the building parapet is to be retained and preserved.

#### CONDITIONS APPLYING PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

4. **Plan of Management**

A finalised Plan of Management for the boarding house is to be submitted to the Principal Certifying Authority and Lithgow City Council prior to the issue of a construction certificate. The final Plan of Management is to include the following:

- Correction of references in the draft Plan of Management from "group home" to "boarding house";
- Operational details of the boarding house in accordance with this consent including references to the DA approval (17 boarding house rooms), identification each room on each level and its maximum occupancy (being no more than 2 adult occupants per room and a total maximum occupancy of 34 adults) and details of which rooms are designated as suitable for accommodation of families and children;
- Clarification that there is no on-site car parking for residents or guests of the boarding house;
- Provision for the parking/storage of bicycles; and
- Relevant contact details for the boarding house operator, on-site manager and facility owner.

## 5. **Heritage Conservation**

(1) Prior to the issue of a construction certificate, a Conservation Management Strategy is to be prepared for the site to guide heritage conservation works. The Conservation Management Strategy is to address (without limitation) the following:

- Identify opportunities for highlighting and restoring elements of the site having heritage significance;
- Identify the broad levels of significance for external and internal fabric;
- Specify policies for the care, conservation and adaptive re-use of the site;
- Provide for the investigation and conservation of concealed underlying or early fabric on site prior to works commencing;
- Key elements to be addressed include the ground floor lobby facing Main Street, the central stair, public circulation areas on the upper floors, original windows and doors (including the remnant highlights on bedroom doors), remnant original ceiling treatments above the existing ceiling lining in the former bar area, the former arched opening facing Eskbank Street and any other discovered underlying finishes;
- Detail how new and upgraded building services will be coordinated to avoid unnecessary intrusive works and damage to the existing built form;
- Detail how accessibility and compliance will be addressed with options to avoid impact on heritage significant elements of the building (such as windows, doors, central stair etc.); and
- Include a schedule of conservation works for each room/level/element as relevant to provide the basis for building specifications and instruction to building and trades contractors working on the site.

The Conservation Management Strategy is to be submitted to and approved by the Principal Certifying Authority with a copy provided to Lithgow City Council for comment prior to the issue of a construction certificate.

(2) Prior to the issue of a construction certificate an archival record of the building in its current form is to be obtained in accordance with Heritage NSW guidelines for photographic recording. A copy of the archival record is to be provided to the Principal Certifying Authority and Lithgow City Council.

(3) The existing feature windows on the central stair landings are to be protected, preserved and retained in the approved development. Construction certificate drawings are to include provision for the protection and preservation of the existing feature window on the upper central stair landing. Where the feature window on the lower central stair landing is found to be remaining behind existing building elements, this window is to be restored and preserved.

## **CONDITIONS APPLYING BEFORE WORKS COMMENCE**

### 6. **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

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.

## 7. **Heritage Conservation**

Prior to the commencement of works an archival record of the building in its current form is to be obtained in accordance with Heritage NSW guidelines for photographic recording

## 8. **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.

## 9. **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.*

## 10. **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.

**11. Waste management**

- (1) A waste management plan for the work must be prepared before work commences on the site.
- (2) The waste management plan must—
  - (a) identify all waste (including excavation, demolition and construction waste material) that will be generated by the work on the site, and
  - (b) identify the quantity of waste material, in tonnes and cubic metres, to be—
    - (i) reused on-site, and
    - (ii) recycled on-site and off-site, and
    - (iii) disposed of off-site, and
  - (c) if waste material is to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
  - (d) if waste material is to be disposed of or recycled off-site—specify the contractor who will be transporting the material and the waste facility or recycling outlet to which the material will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

**12. Adjoining wall dilapidation report**

- (1) Before commencing any demolition or excavation works, the person having the benefit of the development consent must obtain a dilapidation report on any part of a building that is within 2m of the works.
- (2) If the person preparing the report is denied access to the building for the purpose of an inspection, the report may be prepared from an external inspection.

**13. 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.

**14. Plumbing and drainage – Notice of Works**

Prior to the commencement of any plumbing and/or drainage work, a Notice of Works is to be submitted to Lithgow City Council by the licensed plumbing contractor in accordance with the *Plumbing and Drainage Act 2011* and the *Plumbing and Drainage Regulations 2017*.

## **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.*

### **15. 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.

### **16. 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.

### **17. Compliance with plans**

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

### **18. Demolition**

Any demolition must be carried out in accordance with AS 2601—2001, The demolition of structures.

### **19. Protection of fireplaces**

Any original fireplaces and mantelpieces to be removed are to be salvaged, retained, tagged and stored on site for future re-use in the building.

### **20. 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.

**21. 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.

**22. Drainage connections**

- (1) If the work is the erection of, or an alteration or addition to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- (2) Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.

**23. Plumbing and drainage**

- (1) All plumbing and drainage works are to be carried out by a licensed plumber in accordance with the requirements of Australian Standard 3500 1 & 2 and the Plumbing Code of Australia.
- (2) All plumbing works are to be inspected by officers of Lithgow City Council. Notification of a minimum 48 hours is to be given for the inspection of the following:
  - a) Internal and external drainage lines prior to backfilling,
  - b) The licensed plumber shall be on site at the time of the inspection and the drainage lines shall be charged under test,
  - c) Hot and cold water installations under test bucket pressure of 1500Kpa, and
  - d) On completion of all plumbing, drainage and sanitary fixture installations.
- (3) A Certificate of Compliance shall be obtained for all sanitary plumbing and drainage works following a final inspection by officers of Lithgow City Council.

- (4) Stormwater drainage works are to be installed and connected to the drainage system before the roof is installed. Where stormwater drainage cannot be practically connected to the drainage system, an adequate system of detention and dispersal is to be installed that does not result in nuisance to adjoining properties.

**24. 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.*

**25. 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.*

**26. When a survey certificate is required**

- (1) If any part of the work is the erection of a new building, or an alteration or addition to an existing building, that is located less than 3m from the lot boundary, a survey certificate must be given to the principal certifying authority—
  - (a) before any form work below the ground floor slab is completed, or
  - (b) if there is no such form work—before the concrete is poured for the ground floor slab.
- (2) The survey certificate must be prepared by a registered land surveyor and show the location of the work relative to the boundaries of the site.

**CONDITIONS APPLYING BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

**27. Mechanical ventilation systems**

If the work includes a mechanical ventilation system that is a regulated system within the meaning of the *Public Health Act 2010*, the system must be notified as required by the *Public Health Regulation 2012*, before an occupation certificate (whether interim or final) for the work is issued.

**28. Certificate of compliance – plumbing works**

Prior to the issue of any occupation certificate, a Certificate of Compliance and approved sanitary drainage diagram for all sanitary plumbing and drainage installations is to be provided to the Principal Certifying Authority.

**29. Fire Safety Upgrading Requirements**

Pursuant to section 64 of the *Environmental Planning and Assessment Regulation 2021* and prior to issue of any Occupation Certificate, the existing building is to be

brought into conformity with the relevant Performance Provisions of Sections C, D and E of the NCC Volume 1 2019, including (but not limited to) the following:

- a. Works as nominated within Part 2.0 (Sections C, D and E) of the 'BCA Compliance Statement for DA Submission' prepared by Blackett, Maguire and Goldsmith (dated 10 January 2022) but with the following variations:
  - i. The swing of exit doors discharging from the 'common area' located at ground floor level must not encroach over the Main Street footpath.
  - ii. The swing of exit doors serving proposed 'commercial tenancies 4, 5 and 6' located at ground floor level must not encroach over the Eskbank Street footpath.
- b. A smoke detection and alarm system complying with Clause 4 of Specification E2.2a of NCC Vol. 1 2019 is required to be provided throughout the entire building/premises.
- c. A Fire Sprinkler System complying with Specification E1.5 of NCC Vol. 1 2019 is required to be provided throughout the entire building/premises (as proposed).
- d. A system of emergency lighting complying with Clauses E4.2 and E4.4 of NCC Vol. 1 2019 is required to be provided throughout the entire building/premises, including over the external stair discharging within the 'proposed service area' located at ground floor level.
- e. A system of illuminated exit signage complying with Clauses E4.5, NSW E4.6, and E4.8 is required to be provided throughout the entire building/premises.
- f. Any components of a redundant or non-operational AS3786 smoke alarm system that are located throughout the building, are to be removed.

30. **Fire Safety Schedule**

Upon completion of works and prior to issue of any Occupation Certificate, the performance of any fire safety measures relevant to such work (as nominated by any current Fire Safety Schedule) must be assessed and verified by an accredited practitioner (fire safety), engaged by the owner. Certification is to be submitted to Council stating that the fire safety measures have been installed and comply with the relevant performance standard specified by that Schedule.

31. **Redundant layback**

The redundant layback on Eskbank Street is to be removed and reinstated with vertical kerb and gutter to tie in and match the existing brickwork and footpath pavers to the satisfaction of Council's Infrastructure Services Department.

**OPERATIONAL REQUIREMENTS**

32. **Occupation certificate**

Prior to the occupation or use of the commercial premises or boarding house, an occupation certificate must be issued by the Principal Certifying Authority.

33. **Annual Fire Safety Statement**

Once the building is occupied, an Annual Fire Safety Statement must be submitted to Council and to Fire & Rescue NSW, Locked Mail Bag 12, GREENACRE NSW 2190, with a copy retained on site certifying that:

- i. The fire and other safety measures have been maintained so as to meet the original performance design standard required; and

- ii. That the path of travel is clear of anything which would impede free passage of any person at any time.

## Schedule B

### SUBSIDENCE ADVISORY – GENERAL TERMS OF APPROVAL

#### GENERAL TERMS OF APPROVAL

Issued in accordance with Section 4.47 of the *Environmental Planning & Assessment Act 1979* for the subdivision / development of land.

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As delegate for Subsidence Advisory NSW under delegation executed 13 May 2022, general terms of approval are granted for the development described in Schedule 1, subject to the conditions attached in Schedule 2.

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#### SCHEDULE 1

Ref:	TBA22-01703
DA:	213/21
Site Address:	69 MAIN STREET LITHGOW
Lot and DP:	LOT 1 DP 900325
Proposal:	CHANGE OF USE TO MIXED USE DEVELOPMENT CONTAINING BOARDING HOUSE AND COMMERCIAL TENANCIES
Mine Subsidence District:	LITHGOW

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**SCHEDULE 2**  
**GENERAL TERMS OF APPROVAL**

<b>GENERAL</b>	
<b>Plans, Standards and Guidelines</b>	
1.	<p>These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to DA213/21 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development may render these GTAs invalid.</p> <p>If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.</p>
2.	<p>This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.</p>
<b>POST CONSTRUCTION</b>	
3.	<p>Upon completion of construction, submit work-as-executed certification to Subsidence Advisory NSW confirming that construction was in accordance with the plans accepted by Subsidence Advisory NSW.</p>

**Dispute Resolution**

If you are dissatisfied with the determination of this application, an appeal may be formally submitted with the Chief Executive Officer for an independent internal review. The application must be made in writing and must provide reasons why the determination should be changed.