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28 July 2022

Anthony Witherdin
Director, Key Sites Assessments
Department of Planning and Environment
12 Darcy Street, Parramatta NSW 2150

Attention: Tom Piovesan (Senior Planner, Key Sites Assessment)

Dear Tom,

RE: RTS AND RFI RESPONSE – DIGITAL ADVERTISING SIGN – GEORGE STREET RAIL OVERPASS, THE ROCKS (DA22/1839)

1. INTRODUCTION

This letter relates to DA22/1839 (**the DA**) which seeks development consent for the replacement of two existing large-format static vinyl third party advertising signs with a digital advertising signage (**the proposal**) at George Street railway overpass within The Rocks (**the site**). The development application was lodged to the Department of Planning and Environment (**DPE**) in April 2022 (DA22/1839). The DA was placed on public exhibition for 28 days and which closed on Wednesday 4 May 2022.

On behalf of Sydney Trains (**the Applicant**), this letter has been prepared to address matters raised in the public authority and agency submissions from Place Management NSW (**Placemaking NSW**) and City of Sydney Council (**the City**) throughout the public exhibition period. DPE issued a letter dated 18 July 2022 regarding a request for additional information (**RFI**). This letter has been prepared as a formal response to the public authority and agency submissions and RFI.

TfNSW have issued their concurrence for the DA as per their letter dated 8 July 2022. Heritage NSW have also issued the General Terms of Approval (**GTAs**) for the DA as per their letter dated 27 May 2022. The applicant is satisfied with the TfNSW concurrence and the GTAs issued by Heritage NSW.

1.1. PROPOSED DEVELOPMENT

The DA seeks approval for the replacement of two existing large-format vinyl advertising signs with the installation of a new digital advertising sign. Specifically, the proposal comprises the following works:

- Removal of existing large-format vinyl advertising sign, inclusive of JCDecaux logo and associated gantry support;
- Removal of existing static light box and associated gantry support;

- Installation of new digital advertising sign with dimensions of 7.986m x 2.198m, displaying a third-party advertisement, new gantry support and a new JCDecaux logo;
- Reinstallation of an existing 'Low Clearance' signage;
- Installation of a new camera arm; and
- Installation of a new lockable access gate on the existing handrail.

The digital sign will have a dwell time of one (1) advertisement per 25 seconds and an instantaneous (or 0.1 second) transition time.

1.2. SUPPORTING DOCUMENTATION

This letter is supported by the following technical reports and documentation:

- Sydney DCP 2012 Compliance Assessment prepared by Urbis (at **Appendix A**);
- Consistency with The Rocks Strategies prepared by Urbis (at **Appendix B**);
- Heritage Response prepared by Weir Phillips (at **Appendix C**);
- Legal Advice prepared by Addisons (at **Appendix D**); and
- Amended Existing and Proposed Elevation prepared by DBCE (at **Appendix E**).

The Statement of Environmental Effects (SEE) has been amended to reflect the following changes:

- Consistent emergency messaging and public benefit provisions within the SEE and Public Benefit Statement.
- Amended plans to show road clearance height and relocation of the JCDecaux logo.
- Zone classification of the site to Zone 1 under the Transport Guidelines.
- Dwell time of 25 seconds – to address alleged traffic safety issues regarding the lightrail moving northbound and pedestrians in the area.

The Amended SEE is attached at **Appendix F**.

1.3. ANALYSIS OF AGENCY SUBMISSIONS

DPE received two submissions from public authorities, being Placemaking NSW and City of Sydney Council. The key themes identified throughout these submissions relate to:

- Public benefit;
- Heritage impacts;
- Traffic compliance;
- Compliance with the Sydney Development Control Plan 2012; and
- Consistency with the relevant The Rocks strategies.

Importantly, Heritage NSW have granted General Terms of Approval (**GTAs**) for the DA which was provided to DPE on 27 May 2022. The applicant supports the GTAs provided by Heritage NSW.

TfNSW has provided their concurrence for the DA which was provided to DPE on 8 July 2022. The applicant does not raise any concerns with the TfNSW concurrence.

2. RESPONSE TO AGENCY SUBMISSIONS

Table 1 below provides a response to the matters raised by the submissions of City of Sydney Council (dated 4 May 2022) and Placemaking NSW (dated 3 May 2022).

Table 1 Response to Agency Submission

| Submission Comment | Applicant Response |
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| City of Sydney | |
| <p><u>Signs and Advertisement controls in SDCP 2012</u></p> <p>The City acknowledges that the Statement of Environmental Effects states that the site does not require an assessment against the SDCP 2012. However, the reason for this is not clear. The City considers the SDCP 2012 to be relevant to the proposal and the proposal should demonstrate compliance with its objectives and controls. In particular, the following components of the SDCP 2012 relating to signs and advertisements:</p> <ul style="list-style-type: none"> ▪ Objectives of Section 3.16 – Signs and advertisements. ▪ Section 3.16.3 – General requirements for signage. ▪ Section 3.16.4 – Illuminated signage. ▪ Section 3.16.7.1 - General requirements for third party advertisements. ▪ Section 3.16.7.2 – Replacement, modification, or conversion of an existing approved advertising structure to an electronic variable content advertising structure. ▪ Section 3.16.11 – Signage related to heritage items and conservation areas. ▪ Section 3.16.12 – Signage precincts. | <p>The site is located within The Rocks. The applicable adopted Environmental Planning Instrument for land falling within The Rocks is the Sydney Cove Redevelopment Authority (SCRA) Scheme. Therefore, the SCRA Scheme applies to the site.</p> <p>The site is not located within the Land Application Map under the <i>Sydney Local Environmental Plan 2012</i>. Therefore, the Sydney LEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012) is not applicable to the site. However, for abundant caution, a compliance assessment against the relevant section within the SDCP 2012 is provided at Appendix A.</p> |

| Submission Comment | Applicant Response |
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| <p><u>Heritage impacts</u></p> <p>The City defers to NSW Heritage for detailed comment, however concern is raised regarding the adverse impact of changing illuminated LED signage in this location.</p> <p>The City disagrees that the changeover of advertising on the LED screen on a 10 second basis 'will not introduce any new impacts on the heritage significance of the viaduct'. Rather, the City considers that the changing illuminated signage in this location will have negative visual impact on the setting and views to and from the heritage item and, as acknowledged in the Heritage Impact Statement, will impact on the heritage items and special character areas within the City of Sydney to the south of the site.</p> <p>On this basis, the proposal is considered to be contrary to objectives (4), (5), (8) and (11) of Section 3.16 of the SDCP 2012. The City is not satisfied that the signage demonstrates design excellence and contributes positively to the significant characteristics of the streetscape. The proposed illumination will result in further impacts to the heritage item and the streetscape and detracts from a high quality pedestrian experience of streets, particularly at this important gateway location into The Rocks. The changes to the existing third party advertising structure has not demonstrated an improved design quality and community benefits.</p> | <p>The heritage consultant, Weir Phillips, has prepared a detailed response to Council's heritage comments. This provided at Appendix C.</p> <p>In summary, the DA will replace the existing static lighting box and vinyl sign with a digital sign which will have negligible visual impact on both the viaduct and the streetscape on the south side of George Street. The sign will not be visible from the historic streetscape in The Rocks as it will sit within a highly contemporary streetscape that has numerous elements of greater luminance than the sign. The proposed sign will generally present, where not obscured, as visually recessive against the viaduct. For these reasons, it is considered that the impact on the viaduct and The Rocks will be minimal and acceptable.</p> <p>It is important to note that the DA has been assessed and reviewed by Heritage NSW who have granted their GTAs for the DA in accordance with Section 4.47 of the <i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i> and is therefore acceptable from a heritage point of view, as granted by Heritage NSW.</p> |
| <p><u>Public benefit</u></p> <p>The application states that the new signage will provide adequate public benefit in connection with the advertisement, pursuant to Clause 13(2) of SEPP 64 and Section 4 of the Transport Corridor Outdoor Advertising and Signage Guidelines. This is on the basis that the signage will continue to provide a revenue stream to Sydney Trains for improvements</p> | <p>The applicant has sought legal advice on this matter from Addisons and attached at Appendix D.</p> <p>A summary of this legal advice is provided as follows.</p> <ul style="list-style-type: none"> ▪ In relation to Sydney DCP, State Environmental Planning Policy (Industry and Employment) 2021 (the SEPP) does not directly apply as a development control plan is not a "environmental planning instrument" (EPI) as defined in the |

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| <p>and maintenance programs and will display instantaneous safety or public awareness messages.</p> <p>Section 3.16.7.2 of the SDCP 2012 discusses the replacement, modification, or conversion of an existing approved advertising structure to an electronic variable content advertising structure and includes the following provisions:</p> <p>Provision (2) states that when considering such replacement, the consent authority is to have regard to the extent of public benefit that will be provided in connection with the structure.</p> <p>Provision (9) requires the public benefit to be satisfied by making 10% of the advertising time available free of cost for use by the City of Sydney to display public information, community messages and promotion of Council events and initiatives.</p> <p>Clause 3.16.7.2(9) of the DCP is to be applied through the consideration of SEPP 64 and is entitled to significant weight. The City considers that compliance with both Clause 13(2) of the SEPP and Clause 3.16.7.2(9) of the DCP should be demonstrated concurrently. This has not been considered in the current proposal.</p> <p>It is also noted that one of the existing signs (the westernmost sign) is currently used by Property NSW as a gateway sign. This is proposed to be permanently removed, which results in a further loss in public benefit overall, with only private advertising signage now proposed. This additional loss in public benefit is not supported by the City.</p> | <p>EP&A Act. Section 3.43 of the Act applies to inconsistencies between a DCP and an EPI.</p> <ul style="list-style-type: none"> ▪ The “principal purpose” of a DCP is to provide “guidance” as to certain matters to the persons proposing to carry out relevant development and the consent authority for any such development (Section 3.42 of the EP&A Act). Such provisions of a DCP are expressly stated not to be statutory requirements (Section 3.42) and are to be considered flexibly (Section 4.15(3A)). ▪ Section 3.42(b) indicates that a development control plan is only to facilitate development that is permissible under the applicable environmental planning instrument. As the subject DA only achieves permissibility through the SEPP, it is queried how much weight should be given to a development control plan which primarily relates to permissible development in accordance with a local environmental plan (and specifically Clause 3.16.7.2(9) the Sydney DCP in the subject case). ▪ In accordance with the principles stated in <i>Tomasic</i>, a development control plan which conflicts with other policy outcomes adopted at state level will be given less weight than a development control plan which provides a sensible planning outcome consistent with other policies. The tests from <i>Hastings Point</i> and <i>Castle Constructions</i> will apply as to whether a DCP is inconsistent or incompatible with the provisions of an EPI, as was discussed in <i>Gorgees</i>. ▪ It is the applicant’s view that the outcomes sought in the DCP conflict and are incompatible with the policy outcomes in the SEPP and therefore the DCP should be afforded little statutory weight. ▪ The objectives of Clause 3.16.7 of the DCP are to provide guidance on advertisement structures and third-party advertising and ensure public |

| Submission Comment | Applicant Response |
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| | <p>benefit derived from such signs. The DCP does not directly apply to signs in transport corridors.</p> <ul style="list-style-type: none"> ▪ The objects of the SEPP include “to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.” This is further articulated elsewhere in the SEPP. The <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> provide detailed guidance on what will constitute a public benefit for advertising in transport corridors on behalf of Sydney Trains. ▪ There is therefore arguably a “want of consistency or congruity” or “lack of accordance or harmony” between the public benefit obligations under the SEPP and the public benefit requirements in Clause 3.16.7.2(9) of the DCP. ▪ Accordingly, it may be inappropriate for the Minister to apply the public benefit test in accordance with the SEPP and the Guidelines and also apply the public benefit requirements in Clause 3.16.7.2(9) of the DCP. It is clear that the Minister will need to be satisfied that the DA will provide acceptable public benefits as per the SEPP and as further articulated in the Guidelines. ▪ Clause 3.16.7.2(9) of the DCP should be afforded little weight in accordance with current case law on this matter and the incongruity that arises in seeking to apply the DCP and SEPP to the DA. <p>The Minister must take into consideration and be satisfied of the public benefits provided as per clause 3.11(2) of the SEPP. This is discussed below.</p> <p><u>Public benefits provided by the DA:</u></p> <p>The DA provides public benefit and is consistent with Clause 3.14 of the SEPP as it provides Sydney Trains with an on-going revenue stream arising from the display screen being privately leased for display purposes. All the revenue generated to Sydney trains from the digital sign will be invested back into the rail</p> |

| Submission Comment | Applicant Response |
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| | <p>network and directed towards maintenance and upgrade works, ensuring enhanced transport services to the public. The DA represents a valid means to provide such revenue and ultimately provide public benefit.</p> <p>Further, the revenue generated can also be used to facilitate other Sydney Trains projects which will benefit the public, including the future roll-out of 'gap buffers' within CBD stations located close to the subject site. Other projects underway include the Transport Access Program, which will benefit both the local community and broader community when travelling to railway stations that do not currently provide access (via lifts, new canopy covers, upgraded footpaths and improvements to wayfinding) for persons with a disability limited mobility, carers/parents with prams and customers with luggage, through the provision of lifts. Residents and visitors of The Rocks may travel to stations that lack these facilities and the Transport Access Program will provide a benefit to residents/visitors travelling to those stations.</p> <p>As the sign is positioned at a key location with the Rocks, it will provide further public benefit to Sydney Trains, TfNSW, and emergency services to display instantaneous safety or public awareness messages. In addition to the on-going revenue stream, the digital screen will be used to provide important information to customers and the public in event of the following:</p> <ul style="list-style-type: none"> ▪ Station emergency situations; ▪ Any major disruption which is likely to cause delays to train running times; ▪ Sydney Trains and TfNSW promotions and events; and ▪ Threat-to-life alerts by NSW Government Emergency and Police Agencies. |

| Submission Comment | Applicant Response |
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| Place Management NSW | |
| <p>The proposed location of the new digital sign occupies a significant threshold entrance into the historic Rocks precinct, one of Australia's most important tourist and cultural places, including government agencies such as Place Management NSW, The Opera House, Overseas Passenger Terminal, Museum of Contemporary Art, Transport for NSW, Royal Botanic Gardens, Destination NSW, as well as a range of arts organisations located within the wider Millers Point area.</p> <p>Given that northbound traffic movements along this section of George Street have changed the need for the proposed digital sign at this location is further queried.</p> | <p>The replacement of the existing large-format backlit vinyl sign with a digital sign is positioned to optimise exposure to pedestrian and traffic movement along George Street. The Circular Quay precinct located further east of the site is a prominent location for cultural and recreational uses within Sydney. The Circular Quay Renewal Project is set to create a more dynamic space for visitors and locals to enjoy new places to eat, drink and shop. The Circular Quay Renewal Project considers options to upgrade the wharves and revamp the train station to reaffirm Circular Quay as a key transport hub for Sydney. This is expected to result in an increased number of visitors to the precinct, allowing for an increased number of people viewing the advertisements. Therefore, the DA reflects the strategic location of the site within The Rocks which provides opportunity for cultural and recreational activities.</p> |
| <p>The proposed location of the new digital sign should be considered against the broader objectives of the vision for The Rocks including several placemaking projects currently being led by Place Management NSW for The Rocks including The Rocks Heritage Management Plan and The Rocks Wayfinding Strategy.</p> | <p>An assessment of the DA's consistency with relevant strategies of The Rocks is provided at Appendix B.</p> |
| <p>Given the State significance of the surrounding locality, it is essential that the design of the sign attachment and frame are well considered and respectful of the architectural style of the bridge/railway viaduct and the aesthetic, historic and contemporary position of The Rocks within the City of Sydney.</p> | <p>The DA is sympathetic to the surrounding areas with State significance including the Darling Harbor and Sydney Opera House.</p> <p>The removal and installation of the structure will not impact the heritage significance of the Circular Quay railway viaduct. The proposal ensures the viaduct continues to provide an interesting and significant contrast to the Cahill Expressway located above it.</p> <p>The proposal is compatible with the scale of the viaduct. The proposed digital structure occupies a</p> |

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| | <p>similar area as the existing backlit vinyl sign along the viaduct. The area covered by the signage is minor compared to the total length of the viaduct.</p> <p>Further, the new signage will not be welded or bolted to the existing bridge girder. It will be clamped to the existing bridge without the need for drilling, bolting, or welding. The significant fabric is thus protected, and the sign is fully reversible at a later date.</p> |
| The new sign shall not exceed the dimensions of the existing transport sign (i.e., 8.48m x 2.30m). | The proposed digital sign has a dimension of 7.986m x 2.198m. |
| As the existing smaller static billboard sign that is currently used by Place Management NSW will be removed, it is considered appropriate as part of the public benefit considerations under Section 3.11(2)(iii) of SEPP Industry and Employment, that Place Management NSW has access to the new billboard for advertising precinct activations, for at least 40% share of voice of the billboard to ensure reasonable economic and community benefits through public messaging of Government events and activations. | <p>A meeting was held between representatives from Sydney Trains, TfNSW and Place Management NSW on 4 May 2022 to discuss access to advertising time on the new digital asset and the removal of the existing static light box asset.</p> <p>The offered solution to Place Management NSW was to establish contact with the TfNSW Marketing / Campaigns department to arrange access to and share some of the '5 minutes in every hour' that Sydney Trains has agreed under their contract with JCDecaux for this particular asset.</p> <p>This solution would allow Place Management NSW to have access to a larger signage screen with state-of-the-art LED technology to improve the look and feel of their content. This will add to the Public Benefit solution by providing customers with a greater breadth of content. This provides a better outcome for Place Management NSW than the current situation with the static light box asset.</p> |

3. RESPONSE TO RFI

Table 2 below provides a response to the matters raised by DPE in their RFI letter dated 18 July 2022.

Table 2 Response to RFI

| DPE Comment | Applicant Response |
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| Public benefit | |
| The Department requests that you consult with City of Sydney Council and Place Management NSW and consider additional public benefits, (e.g. advertising time being made available for PMNSW/Council use) to address their concerns about the loss of public benefit as a result of the removal of the existing Gateway sign. | This is discussed in Table 1 above and in the legal advice prepared by Addisons (attached at Appendix D). |
| Confirm that all revenue from the advertising signs will be re-invested into Sydney Trains network in accordance with the Public Benefit Statement provided by Sydney Trains, noting this is inconsistent with Statement of Environmental Effects states that the revenue generated can be used to support network improvements. | <p>The applicant confirms that all revenue arising from the proposed digital signage to Sydney Trains will be re-invested into running the Sydney Trains network for an improved service offering, as stated in the Public Benefit Statement which was submitted at the time of lodgement of the application.</p> <p>The SEE has been amended accordingly to ensure consistency with the Public Benefit Statement (refer amended SEE at Appendix F).</p> |
| Lighting Assessment | |
| Confirm the zone classification of the site and the luminance levels sought under AS4282 and the Transport Corridor Outdoor Advertising and Signage Guidelines (2017), noting Statement of Environmental Effects identifies the site as Zone 3 under the Guidelines but as Zone 1 in the Lighting Impact Assessment. | <p>The Lighting Impact Assessment which was submitted at the time of lodgement of the application stated that the proposed signage is located within Environmental Zone A4 under AS4282 and Zone 1 under the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (the Guidelines).</p> <p>The SEE has been amended to state that the site is located within Zone 1 under the Guidelines, ensuring consistency with the Lighting Impact Assessment.</p> |
| Design | |
| Relocate the JCDecaux logo sign to the right-hand side of the digital advertisement so the road clearance sign can be reinstated closer to the northbound lane. | DBCE have amended the plans to relocate the logo to the right-hand side of the digital advertisement. The road clearance sign is now moved closer to the northbound lane. Refer amended plans attached at Appendix E . |

| DPE Comment | Applicant Response |
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| | <p>The SEE (Appendix F) has been amended to reflect this change.</p> |
| <p>Detail the purpose of the camera arm located on top of the proposed sign structure.</p> | <p>The camera will be a steady all-round fisheye camera attached to a 2m support arm and mounted at the front of the sign to monitor content displayed.</p> <p>The camera will provide a live feed through a secure network managed by JCDecaux. The cameras do not monitor or record public movement rather, solely observe the visual screen display area to:</p> <ul style="list-style-type: none"> ▪ Ensure the correct scheduled content is displaying. ▪ Identify any screen outage or tile malfunctions. ▪ Observe any acts of vandalism to the screen. <p>The camera's remote monitoring capability enables JCDecaux to repair faults or respond to acts of vandalism in a timely manner and provide evidence to advertising companies about their campaign display.</p> <p>As shown on the proposed elevation plan, the camera does not face the public domain and will not jeopardise the privacy of any resident and users of the public domain. The camera will be set to face the digital screen for the reasons stated above.</p> |
| <p>Confirm the road clearance to the proposed signage structure as the plan submitted with the application shows the road clearance to the existing rail overpass.</p> | <p>DBCE have amended the plans to indicate road clearance to the existing and proposed sign. Refer amended plans attached at Appendix E.</p> |

4. CONCLUSION

We trust that the information provided in this response addresses the matters raised by the City of Sydney, Place Management NSW and DPE and allows the planning assessment to proceed. The response provided in Table 1, Table 2 and the attached appendices addresses the requirements raised by DPE.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Harsha Yadav".

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