

26 August 2022

Keiran Thomas
Director, Regional Assessments
NSW Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Attention: Tom Scoble
thomas.scoble@dpie.nsw.gov.au

Dear Mr Thomas,

**Response to Submissions and Additional Information (DA22/7252)
Digital Advertising Sign – Help Street, Chatswood**

This letter has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of Sydney Trains (the Applicant) to address the *Department of Planning and Environment's* (DPE) request for a Response to Submissions (RtS) and additional information dated 28 July 2022 in relation to Development Application (DA22/7252).

We note that the application received five submissions including a submission from *Willoughby City Council* (Council) and four public submissions. A detailed response to the issues raised in the submission is provided at **Attachment A**.

We note advice from Transport for NSW (TfNSW) has not been provided yet. A response to any issues raised by TfNSW will be prepared following receipt of advice.

Key issues

The submissions raise the following concerns:

- safety of the adjacent intersection and risk of driver distraction
- visual and illumination impacts to units within the Regency Building

Response

The proposal is the result of a comprehensive review of the site and its surrounds. The application is supported by a detailed Lighting Impact Assessment and Traffic Safety Assessment demonstrating the proposal meets illumination and traffic safety standards.

This response reinforces the findings of the SEE and supporting information, that the proposed digital advertising sign:

- will not adversely impact on the amenity of nearby areas
- demonstrates compliance and meets the objectives of Chapter 3 and Schedule 5 of the Industry and Employment SEPP (former SEPP 64)
- will result in acceptable lighting, road safety and visual impacts
- will provide a public benefit to the community

Additional Information

We note DPE has requested further information to address the following:

- *Clarification whether the proposal will require removal of any vegetation surrounding the sign; and*
- *Submission of an Arboriculture Report, prepared by a suitably qualified person, assessing the impact of the proposal (including construction works) on the tree in vicinity of the sign.*

An Arboricultural Impact Assessment (AIA) has been prepared by Matthew Reed and is provided at Attachment D. As a result of the findings during the AIA process, the proposed sign has been relocated approximately 1m closer to the north-eastern corner of the planter bed to ensure limited impacts to tree roots. An updated Architectural Plan is provided at Attachment C.

The AIA concludes the proposal encroaches on the Tree Protection Zone (TPZ) by only 2% which is considered to be a minor encroachment under AS4970-2009 and is not expected to provide any impact. The adjacent tree requires selective pruning (AS4373-2007, Clause 7.2.4 Selective Pruning) approximately 2m from two lower branches.

The proposal will involve minor vegetation clearing of groundcover hedges and birds of paradise to facilitate the installation of the advertising structure. Replacement planting will be provided once the sign is installed.

We trust that this response provides sufficient information required for DPE to further its assessment and approve the application.

Please do not hesitate to contact Padraig Scollard on 8459 7508 or via email at padraig@keylan.com.au should you wish to discuss any aspect of this project.

Yours sincerely



Michael Woodland BTP MPIA
Director

Attachments:

- | | |
|----------------------|---|
| Attachment A: | Response to Submissions |
| Attachment B: | Response to Council's Submission prepared by Bitzios Consulting |
| Attachment C: | Updated Architectural Plans |
| Attachment D: | Arborist Report |

Attachment A -Response to Submissions

A total of five submissions were received on the proposal including four public submissions and a submission from Council. The issues raised in the submissions are addressed in the table below.

Ref.	Issues raised	Response
A	Willoughby City Council	
A1	<p><i>Council has consulted with it Traffic Section and offers the following comments regarding the above proposal.</i></p> <p><i>Council has significant concerns with the proposal on safety grounds. The proposal will reduce safety for all road and pathway users at this intersection as a result of the high level of distraction to all road transport users in a complex location requiring a high level of concentration from all road transport users. In particular it is noted that:</i></p>	<p>Bitzios Consulting have prepared a detailed response to the matters raised by Council. We note that the matters specifically relate to road safety.</p> <p>This assessment concludes that the proposal does not result in any traffic safety issues.</p> <p>Further, Bitzios Consulting have provided the following responses to Council's Traffic Concerns A2-A8 (refer to Attachment B).</p>
A2	<ul style="list-style-type: none"> <i>The proposal is located within an existing heavily utilised intersection within Chatswood CBD. High numbers of pedestrians, motor cars, buses and commercial / service vehicle movements use this intersection at all times of the day. The intersection is also part of Council's bicycle network with links through the intersection into/ out of the Chatswood CBD and northern destinations.</i> 	<p><i>Presumably the inference in Council's comment is that the presence of multiple modes of transport at all times of the time means that this location has an inherently higher background risk of crashes and should be treated with extra caution when considering digital signs within it. The Help Street approach to the intersection recorded zero crashes over the 5 years assessment period between 2016-2020. Whilst it is a busy intersection with multiple modes of transport, the data shows that it is not an inherently unsafe intersection most probably because all off the multiple movements and modes are very well-controlled in dedicated lanes and phases at the signals.</i></p>
A3	<ul style="list-style-type: none"> <i>The intersection and land uses provide a road environment requiring high levels of attention and Austroads (2013) notes that "Advertising devices should not be located so that they are visible at the approach to, or from, an intersection, pedestrian crossing, tram stop or in any location that is likely to be highly demanding of attention."</i> 	<p><i>If generalising, yes, some parts of the intersection involve a high cognitive load imposed on drivers with multiple decisions needing to be made in quick succession. The Help Street approach to the intersection is not one of them.</i></p>

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		<p><i>The curved alignment along Help Street towards the intersection is not complex, and simple driving decisions to go or stop are made at a relatively slow speed because of the alignment. All decision triggers are in the forward field of view and a glance to the digital sign would not distract from them.</i></p> <p><i>Beyond 50m to the proposed digital sign on approach to the intersection, the sign could not be seen because of the sharp concave bend in the Help Street which means that the buildings to the left and their awnings, and trees, would obscure it from view. As such, drivers would not see the sign on approach to the signal stop line, and hence any decision to stop at, or to pass through the signalised crossing would occur before drivers are in view of the sign. That is, no decisions in relation to the signals are required where the sign is visible.</i></p> <p><i>Additionally, it was observed on-site that a red arrow stopping left turns from Help Street into Orchard Road is displayed during both the walk time and the clearance time for the pedestrian crossing across Orchard Road (a total of 22 seconds), providing full protection for pedestrians making this movement.</i></p>
A4	<ul style="list-style-type: none"> <i>It is considered that the design and operation of the proposed digital sign will be very conspicuous to road users. Austroads (2013) notes that “A significant emerging safety issue is the use of digital display technology for outdoor advertising signs. This new technology will enable the advertising industry to display more attention-getting messages that are likely to cause drivers to be less attentive to the driving task.”</i> 	<p><i>The subsequent Wachtel (2009) excerpt cited in Austroads (2013) claims that the newest digital billboards are capable of ‘interacting’ with approaching drivers, such as triggering personalised messages and encouraging drivers to ‘text’ a message or call a number displayed on the billboard. The proposed digital sign does not do this. Furthermore, the contention that the sign could potentially cause drivers to be less attentive to the driving task has no basis in the research around how drivers prioritise driving-critical tasks over all other tasks when in a moving vehicle, the fact that drivers have maximum glance times to digital signs of 0.5 seconds and that drivers, having already glanced to the sign on approach, would have a</i></p>

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		<i>diminishing need to do so when much higher driving motivations and motivations for self-preservation exist.</i>
A5	<ul style="list-style-type: none"> <i>In regards to safety impacts it is considered that the proposed digital sign will increase road user distraction and reduce the level of safety at this heavily utilised intersection. It is noted that Austroads (2013) advises that “It is now widely recognised that distraction is a significant contributor to crashes. While there has been a focus on in-vehicle distraction, especially from mobile phone use, in recent years there has been a growing recognition that distraction may arise from sources outside the vehicle. In particular, roadside advertising has been suggested to have the potential to create a crash risk in this way. With the emergence of digital technology it is now the case that advertising scenes can change frequently and may even contain motion and it is this potential for movement in the visual scene that is of special concern from a distraction perspective.” It is also noted that Austroads (2021) advises that “Distracted road users are subject to higher crash risk. Distractions are events and activities that divert driver attention away from the driving task such as dialling on a handheld phone or changing the radio channel.”</i> 	<p><i>Most of the research focuses on in-vehicle distractions because these are (by far) the leading cause of distraction-related crashes. A digital sign has no negative influence on in-vehicle distractions and may (logically) have some positive influence.</i></p> <p><i>Driver inattention, as reported by Austroads (2013 and 2021) is poorly correlated to driver distraction due to external stimuli and is more closely related to invehicle distractions and the mental state of drivers processing thoughts unrelated to driving, whilst driving. This also applies to pedestrians.</i></p> <p><i>The term distraction has been misinterpreted in this context. Distraction events should be interpreted as events that take a driver’s eye away from the forward roadway so that drivers are unable to observe driving critical stimuli in the forward view. This proposed digital sign does not do this because it is in the forward view.</i></p>
A6	<ul style="list-style-type: none"> <i>It is recommended that NSW Department of Planning and Environment Transport Corridor Outdoor Advertising and Signage Guidelines Assessing Development Applications Under SEPP 64 (2017) be met, and if not specifically relating to this proposal, than the intent and criteria of the safety approach indicated in this Guideline via “To minimise distraction near decision making points and conflict points, and ensure there is sufficient distance for a driver to recognise, react and, if required, stop safely before reaching one of these points’ should be met.</i> 	<p><i>See above responses.</i></p> <p><i>Additionally, with the location of the sign in the forward view on Help Street its location will “ensure there is sufficient distance for a driver to recognise, react and, if required, stop safely before reaching one of these points”.</i></p>
A7	<i>The proposal also fails to achieve the safety objectives in Part G.5 (Advertisements and Advertising Structures) of the Willoughby DCP. One objective of Part G.5 is that signage does not cause distraction to motorists by means of flashing, moving/changing or the like. For the</i>	<i>Although a digital LED sign is proposed, the display of content will be completely static (i.e. not involve flashing or moving/changing images) for a minimum dwell time of 10 seconds with a transition time of no more than 0.1 seconds. It</i>

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	<i>reasons set out above, it is submitted that the proposal will not achieve this objective.</i>	<i>will not cause distraction way from the forward roadway which means the intent of the strategy.</i>
A8	<i>It is noted that the Land and Environment Court recently refused an application for digital signage on Pacific Highway on safety grounds. (https://www.caselaw.nsw.gov.au/decision/1818932f43934efc17a56ce1). Council has similar safety concerns in the current matter.</i>	<i>This location has a completely different context to the Pacific Highway example. Also, there are many other cases throughout Australia in similar CBD-type environments that have been approved by the court, or have been operating for many years without any correlation to crashes.</i>
B	SUB-2567	
B1	<i>I object to the proposal on the Hours of Operation stated in the application, being 24 hours, 7 days a week. It would be acceptable if the digital signage is switched off between 10pm and 6am to limit undesired illumination impact to residents at Regency Apartments Help St at night.</i>	<p>As outlined in the Lighting Impact Assessment (LIA) submitted with the application, the proposed sign will comply with the illumination criteria under AS 4282 and the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> (Signage Guidelines).</p> <p>The illumination criteria have been designed to ensure illumination is appropriate for its context and adverse amenity impacts to surrounding uses, including residences at 2A Help Street, are limited. The proposal will be limited to a maximum luminance of 300cd/m² during the night time period which ensures there will be no unacceptable glare or illumination impacts to surrounding uses or residential properties.</p> <p>It is also noted that the sign is orientated towards the north-east and will not directly face 2A Help Street. The residential units at 2A Help Street are located above a two storey podium. Consequently, view lines will be further angled minimising potential visual or illumination impacts.</p> <p>Based on the above analysis and LIA, the proposal is considered to have an acceptable impact on nearby properties in accordance with the Guidelines.</p>

Ref.	Issues raised	Response
C	SUB-2571	
C1	<p><i>The advertising signage would cause disruption to all of our apartments in the Regency building. This does not seem like a good idea, and would cause a lot of disturbance to everyone, just to have adverts displayed.</i></p> <p><i>I object this proposal of having the signage put up here.</i></p> <p><i>Please consider this submission.</i></p>	<p>As noted above (B1), illumination impacts will be limited in accordance with the relevant criteria to ensure illumination is appropriate for its context and adverse amenity impacts to surrounding uses are limited.</p> <p>Further, visual impacts to the Regency building are anticipated to be mitigated by the size of the proposed sign, the orientation and street tree planting along Orchard Road and Help Street.</p>
D	SUB-2615	
D1	<p><i>I have reviewed the plans provided on internet and have put together the following summary of my concerns:</i></p> <p><i>The digital signage will be located on the southern aspect of my home with same height. My balcony and all the windows from my bedrooms and living room are facing south. I believe the digital signage will be highly affected the tranquility and value of my home. Please take this into consideration.</i></p>	<p>The nearest south facing apartments likely to have views of the proposed sign are located over 60m north of the site at 1 Cambridge Lane and 5 Help Street.</p> <p>The distance, size and street tree planting along Orchard Road and Help Street will assist to mitigate visual impacts to the subject residence.</p> <p>Visual impacts from nearby views have also been thoroughly assessed and determined to be acceptable within the Visual Impact Assessment submitted with the application.</p>
E	SUB-2633	
E1	<p><i>I live in The Regency on 2B Help Street Chatswood and wish to advise that I object to the proposed development of a single sided advertising sign in Help Street, Chatswood NSW2067. I am on the board of the Regency.</i></p> <p><i>The reason for this objection as the traffic is very hectic at this proposed site. There is also the fact this will cause a total distraction to drivers at this spot.</i></p>	<p>Traffic safety matters have been addressed as detailed within:</p> <ul style="list-style-type: none"> the Traffic Safety Assessment (TSA) prepared by Bitzios Consulting and submitted with the DA the response to Council's Submission prepared by Bitzios Consulting (Attachment B) <p>In particular, the TSA concludes that the road environment along Help Street in proximity to the railway overpass is considered to</p>

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		present a low risk environment for the proposed digital advertising sign and is acceptable on road safety grounds
E2	<p><i>There are also a very big problem for the people whose flats are opposite this digital advertising sign and will cause problems at night while lights flash.</i></p> <p><i>I have written to you before and you decided to put the sign facing Pacific Hwy and now, according to my chat with Michelle Niles this morning, the sign will be facing Help Street. This is really not fair to people in the building.</i></p> <p><i>I do hope that this letter will not be ignored.</i></p> <p><i>Looking forward to hearing from you regarding this letter and my objection.</i></p>	<p>As noted above (B1), illumination impacts will be limited in accordance with the relevant criteria to ensure illumination is appropriate for its context and adverse amenity impacts to surrounding uses are limited.</p>