

29 September 2022

Keiran Thomas,
Department of Planning and Environment
12 Darcy Street
Parramatta NSW 2150

Submitted via NSW Planning Portal

Dear Keiran

I refer to the items raised in the Department of Planning and Environment's Request for Additional Information Letter dated 24 August 2022 in relation to DA 22/8564 located at 140 Cormorant Road, Kooragang. The items raised in the letter are addressed below.

This response to RFI letter is supported by the following information:

Document	Author	Date
Structural Design Statement	Arcadis	7 September 2022
Structural Feasibility Assessment Calculations	Arcadis	June 2022

1. Structural Feasibility Statement

Please provide the Department with a structural feasibility statement prepared by a suitably qualified expert which:

- *assesses and determines the structural feasibility of the proposed signage;*
- *addresses the structural requirements for the proposed signage including height, required supporting structures, self-weight of the required post and total weight of the signage and structure;*
- *assesses the wind loading for the site and any requirements as a result; and*
- *provides any recommendations from the expert*

Response:

Refer to Structural Design Statement prepared by Arcadis dated 7 September 2022 and the Structural Feasibility Assessment Calculations prepared by Arcadis dated June 2022.

2. Public Benefit

Please provide the Department with an assessment of the public benefit of the proposal.

Response:

The proposed development will be used to primarily display third party advertising. Notwithstanding this, the advertisement structure may be used from time to time for the promotion of community programs, events, public safety programs or other appropriate public purposes, if there is an identified need to raise public awareness for such campaigns.

With reference to the November 2017 Transport Corridor Outdoor Advertising and Signage Guidelines, the level of public benefit for a given advertisement is to be negotiated and agreed upon between the consent authority and the applicant. It is proposed that the public benefit be provided by allocating the City of Newcastle Council 5 percent display time on the digital advertisement screen for public purposes.

3. Luminance Levels

Please provide the Department with the proposed luminance levels of both signs in cd/m² for the following lighting conditions:

- *externally illuminated sign: day and night time*
- *digital sign: full sun of face on signage, day time, morning/evening and twilight/overcast weather, and night time*

Response:

With reference to the Light Impact Assessment prepared by Electrolight dated 20 May 2022, the proposed signage luminance levels will comply with the specified requirements.

The externally illuminated sign will have the proposed luminance levels:

Lighting Condition	Proposed Luminance (cd/m ²)
Day	N/A (OFF)
Night time	200

The digital sign will have the proposed luminance levels:

Lighting Condition	Proposed Luminance (cd/m ²)
Full sun on face of signage	6000
Day time	6000
Morning/evening and twilight/overcast weather	700
Night time	350

4. Response to Submissions

A submission was received from the City of Newcastle dated 15 September 2022. A response to each of the items raised in the submission is provided below.

▪ Subject land

According to the development application the subject land is 140 Cormorant Road Kooragang. CN's records identify the subject land as 80 Raven Street Kooragang.

Response:

The subject site located at Lot 153, DP1202468 ('Lot 153') is identified on the NSW Government ePlanning Spatial Viewer to be 140 Cormorant Road, Kooragang.

▪ Consent Authority

As identified in the Statement of Environmental Effects (SEE) (Pg 6), under Clause 5.6 of State Environmental Planning Policy (SEPP) (Transport and Infrastructure) (2021) the Minister for Planning is the consent authority for development on land within the Port of Newcastle Lease Area, as proposed. However, Clause 3.1 of SEPP (Industry and Employment) 2021 provides that 'the council of the local government area in the case of an advertisement displayed in the local government area unless paragraph (c)(d) or (e) applies.' In this case, the subclauses do not apply and therefore for the purposes of this policy CN (i.e., Newcastle City Council) is the consent authority for this application.

The SEE incorrectly indicates that the consent authority is the Department of Planning Industry and Environment (DPIE), based on written advice dated 13 October 2021 provided by DPIE. The letter in fact states that, based on the now repealed SEPP (Three Ports) 2013, the 'sole consent authority' is the Minister for Planning and Public spaces.

The public exhibition notice identifies the Independent Planning Commission as the consent authority. It recommended that the DPE Assessment report demonstrates how the provisions of Chapter 5 of the SEPP (Transport and Infrastructure) 2021 prevail over SEPP (Industry and Environment) 2021 in respect of identifying the consent authority for this application.

Response:

As per email correspondence from Tahlia Sexton, Senior Planning Officer for Regional Assessments, from Department of Planning and Environment dated 16 September 2022, the relevant consent authority is the Minister for Planning, however, the Independent Planning Commission will determine the applications as a delegate of the Minister due to the disclosure of political donations.

▪ **Plans and Elevations**

It is recommended that the Applicant is required to submit an amended plan and elevations which includes the lighting poles and traffic sign in the vicinity of the proposed sign.

Response:

Refer to the response on visual impact below for further detail regarding elevations of the proposed development. It is noted that elevation drawings typically do not include other built form such as street lights and traffic signs in plans.

▪ **Remediation of land**

The application is supported by a Geotechnical Report prepared by GHD which includes consideration of Acid Sulphate soils and contamination. It is recommended that appropriate conditions are imposed on any consent granted which address the findings of the report regarding the above matters.

Response:

It is noted that the consent authority may specify conditions in relation to acid sulphate soils and contamination as conditions of approval.

▪ **Visual Impact**

The SEE (Pg 24) states the proposed signage will not protrude above buildings, structures, or tree canopies. However, the views of the proposed sign in the Traffic Safety Assessment (TSA) prepared by Bitzios Consulting appear to show the proposal protruding above the canopy of trees on the adjoining property. The TSA does acknowledge that the 'sign location is indicative, not to scale and for illustration purposes only'. However, it is recommended that the application be required to provide more accurate information which indicates the height of the proposal relative to the canopy of nearby stands of trees.

Response:

The City of Newcastle Council submission identifies the potential visual impact of the development and recommends that further information is provided to indicate the height of the proposed development relative to the surrounding context including tree canopy. Further information is provided below to identify the height of the development relative to its context, following which it is concluded that the proposal will not have an adverse visual impact.

The Survey Plan prepared by Monteath & Powys dated 20 December 2021 included in the development application's supporting documentation identifies the proposed development's pylon borehole at a height of 3.34 metres AHD. The General Arrangement Plan prepared by Arcadis dated 21 March 2022 identifies the development height to be approximately 7.9 metres. This results in the top of the development having an elevation of approximately 11.25 metres AHD.

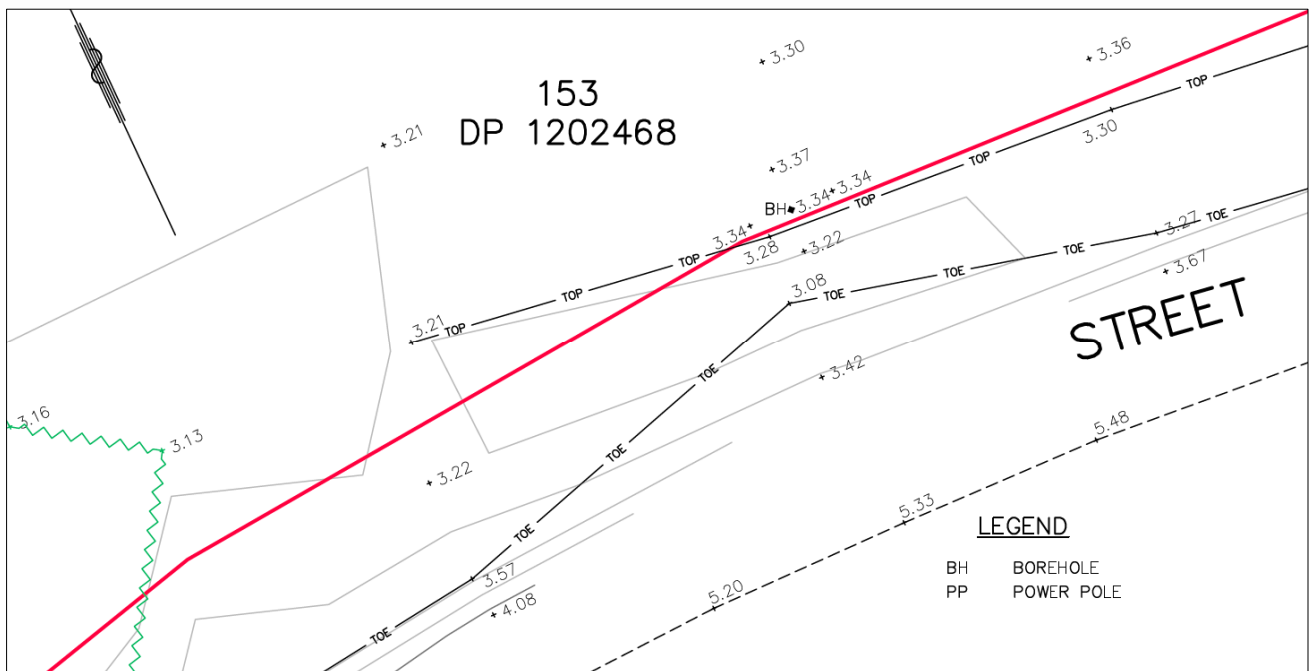


Figure 1 Excerpt of Survey Plan. Source: Monteath & Powys dated 20/12/2021

The Survey Plan indicates that the elevation of the road edge shown as a dashed line, adjacent to the proposal is approximately 5.33 metres AHD. This results in the development having an elevation of approximately 6 metres above the road edge. The ground level beneath the nearby tree canopy (shown as green zigzag line) is identified to have an elevation of 3.13 metres AHD resulting in the development having an elevation approximately 8 metres above the ground level of nearby tree canopy. The height of the tree canopy has not been measured. The height of the proposed development will protrude above the tree canopy when viewed by westbound traffic, however this is attributed in part to the topography of the site sloping downwards from east to west. Notwithstanding this, it is emphasized that there are no built structures and no significant view corridors in proximity of the proposed development. As such, no adverse visual impact will result.

▪ **Lighting Impact**

It is recommended that appropriate conditions of consent be imposed on any consent granted that address the summary of the Lighting Impact Assessment prepared by Electrolight Australia Pty Ltd.

Response:

It is noted that the consent authority may specify conditions in relation to lighting and luminance levels of the proposed signage as conditions of approval.

▪ **Visual Activated Sign**

It should be noted that condition No 6 of consent, required by Transport for NSW, granted in 2019 to a development application (DA2019/00979) for an industrial development on 6 Sandpiper Close Kooragang requires a Vehicle Activated Sign (VAS) to be installed on Teal Street on the southbound approach to Sandpiper

Close. This VAS would be on the opposite side of the road in proximity to the advertising sign and should have regard to in the assessment of this application

Response:

The installation of the Vehicle Activated Sign (VAS) required by Condition 6 of (DA2019/00979) on the southbound approach to Sandpiper Close is not expected to impact the traffic and safety assessment of the proposal due to its separation distance from the proposed signage.

▪ **Development Contribution**

The SEE argues that no development contribution is payable for the proposed development. This is not correct. Under the provisions of the City of Newcastle Section 7.12 Development Contributions Plan a 1% levy on the development cost of the proposal applies. For further information regarding the application of the 2014 Minister's Direction referred to in the SEE, refer to Clause 1.6 -Exemptions and Reductions of the plan. A copy of the plan can be viewed on our website.

Response:

With reference to Clause 1.6 Exemptions and Reductions within the City of Newcastle Section 7.12 Development Contributions Plan, Subclause 1 states that council will provide an exemption from contributions required by the Plan as follows (emphasis added):

*When directed to do so by the Minister. At the date of commencement of this Plan, the prevailing Directions **included** the following relevant to the Newcastle LGA:*

- *No contributions for development undertaken by a 'social housing provider' for the purposes of 'seniors housing' as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- *No contributions for an application determined by the City of Newcastle (or delegate) or accredited certifier for development on land within the 'Port of Newcastle Lease Area' as shown on the relevant Map within State Environmental Planning Policy (Three Ports) 2013;*
- *No contribution for development that has been the subject of a condition requiring monetary contributions under a previous development consent relating to the subdivision of the land on which the development is to be carried out, unless that development will, or is likely to, increase the demand for public amenities or public services beyond the demand attributable to the initial subdivision.*

It is noted that ministerial directions specified above are not intended to be an exhaustive list, and as such, the ministerial direction specified under the Environmental Planning and Assessment (Local Infrastructure Contributions – Port of Newcastle) Direction 2014 applies. As such, no such, no development contributions are payable for the proposed development.

▪ **Aboriginal Cultural Heritage**

While the SEE (Pg21) states that the proposed development will not impact on any known Aboriginal cultural heritage, practices and places, it is recommended an appropriate advisory condition be imposed on any consent granted regarding unexpected finds of Aboriginal objects.

Response:

It is noted that the consent authority may specify conditions in relation to unexpected finds of Aboriginal Cultural Heritage as conditions of approval.

If you have any questions regarding this letter, please don't hesitate to contact Samuel Liu - Project Planner at sliu@barrplanning.com.au or on 0402 768 552.

Yours Sincerely



Rebecca Johnston

DIRECTOR – PLANNING MANAGER