

# Development Consent

## **Section 4.16 of the Environmental Planning and Assessment Act 1979**

As delegate of the Minister for Planning, under delegation dated 14 September 2011, we, the Independent Planning Commission approve the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



Professor Richard Mackay  
Member of the Commission



Dr Peter Williams  
Member of the Commission

Sydney

9 September 2022

File: DA 21/13182

### **SCHEDULE 1**

<b>Application Number:</b>	DA 21/13182
<b>Applicant:</b>	Eye Drive Sydney Pty Ltd
<b>Consent Authority:</b>	Minister for Planning
<b>Site:</b>	Sommerville Road, Glebe Island (Lot 12 DP 1170710)
<b>Development:</b>	Continued use of the existing Glebe Island Silos Advertising Signage on top of the southern and western elevations of the Silos for three years

## DEFINITIONS

<b>Accredited Certifier</b>	The holder of a certificate of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> acting in relation to matters to which the accreditation applies
<b>Advisory Notes</b>	Advisory information relating to the consent but do not form a part of this consent
<b>Applicant</b>	Eye Drive Sydney Pty Ltd (a subsidiary company of oOh!media) or any person carrying out any development to which this consent applies
<b>Application</b>	The development application and the accompanying drawings plans and documentation described in Condition A2
<b>Certifier</b>	Means a Council or person registered as a registered certifier under the <i>Building and Development Certifiers Act 2018</i>
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	All physical work to enable operation including but not limited to the demolition and removal of buildings or works, the carrying out of works for the purpose of development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
<b>Council</b>	Inner West Council
<b>Demolition</b>	The deconstruction and removal of any structures on the site
<b>Department</b>	NSW Department of Planning and Environment
<b>Development</b>	The development described in the SEE and RtS including the works and activities comprising construction, operation and post-commencement of use as modified by the conditions of this consent.
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Guidelines</b>	Transport Corridor Outdoor Advertising and Signage Guidelines 2017
<b>Incident</b>	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Material harm</b>	Is harm that: <ul style="list-style-type: none"> <li>a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul>
<b>Minister</b>	NSW Minister for Planning (or delegate)
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>NCC</b>	National Construction Code
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction.
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee/delegate
<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.

<b>RtS</b>	The Applicant's response to issues raised in submissions received in relation to the application and by the Department of Planning and Environment for consent for the development under the EP&A Act.
<b>SEE</b>	Statement of Environmental Effects prepared by Urban Concepts (on behalf of Eye Drive Sydney Pty Ltd (a subsidiary company of oOh!media) dated 27 August 2021
<b>Subject site</b>	The site as described in Schedule 1

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development.

#### TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary;
  - (c) in accordance with the approved plans and reports in the table below:

Design Drawings by Arcadis			
Drawing No.	Issue	Name of Plan	Date
DA.01	1	Existing Signage Elevations And Details	30/06/21

Technical Report	Reference	Author	Date
Statement of Environmental Effects	-	Urban Concepts (on behalf of Eye Drive Sydney Pty Ltd (a subsidiary company of oOh!media)	27 August 2021
Response to Submissions	-	Urban Concepts (on behalf of Eye Drive Sydney Pty Ltd (a subsidiary company of oOh!media)	18 March 2021
Sign Traffic Safety Assessment	P5182 V002	Bitzios Consulting	22 June 2021
Letter of Public Benefit	-	Eye Drive Sydney Pty Ltd (a subsidiary company of oOh!media)	25 May 2021
Lighting Consultant Advice Letter	2924 Rev 1	Electrolight Australia Pty Ltd	3 December 2021
Light Measurement Report	2924 Rev. A	Electrolight Australia Pty Ltd	16 March 2022
Statement of Heritage Impact	-	NBRS & Partners Pty Ltd	26 June 2021
Response to Submissions (Heritage)	-	NBRS & Partners Pty Ltd	18 March 2022
Ecological Impact Assessment	22012	Cumberland Ecology	19 February 2022
Visual Impact Assessment	01 RPT_Glebe Island Silos	Urbis	March 2022

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
  - (b) the implementation of any actions or measures contained in any such document referred to in **Condition A3(a)** above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in **Condition Error! Reference source not found.** In the event of an inconsistency, ambiguity or conflict between any of the documents listed in **Condition Error! Reference source not found.**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### DURATION OF CONSENT

- A5. This development consent is issued for a limited period of three years. The consent will cease to be in force/expire three years after the date of consent.

*Note: a new Development Application must be submitted prior to that date for assessment and determination if it is intended to continue the use beyond the cessation date.*

- A6. Within 3 months of the permitted use lapsing, the Applicant must ensure the sign is removed and the site is restored and reinstated in accordance with the requirements of the Port Authority.

#### **LIMITS OF APPROVAL**

- A7. No changes or fixtures other than those shown on the stamped plans or as specified in these conditions of consent are to be made or installed without the prior approval of the consent authority

#### **STRUCTURAL ADEQUACY**

- A8. All structures, and any alterations or additions to existing buildings and structures, that are part of the development, must comply with the relevant requirements of the NCC.

**Notes:**

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

#### **LONG SERVICE LEVY**

- A9. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

#### **DEVELOPMENT EXPENSES**

- A10. It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.

#### **WIND LOADING**

- A11. The approved signs must meet wind loading requirements as specified in Australian Standard AS 1170.1: Structural Design Actions – Permanent, Imposed and Other Actions and AS 1170.2:- Structural Design Actions – Wind Actions.

#### **REFLECTIVITY**

- A12. The level of reflectance of an advertisement, and its content, is not to exceed the 'Minimum coefficients of Luminous intensity per unit area for Class 2A Material', as set out in Australian Standard AS/NZS 1906.1:2007.

#### **OPERATION OF PLANT AND EQUIPMENT**

- A13. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

#### **APPLICABILITY OF GUIDELINES**

- A14. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A15. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

#### **INCIDENT NOTIFICATION, REPORTING AND RESPONSE**

- A16. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

#### **PRESCRIBED CONDITIONS**

- A17. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

#### **NON-COMPLIANCE NOTIFICATION**

- A18. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.
- A19. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A20. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

#### **DEVELOPMENT NEAR BUSY ROADS**

A21. The sign must comply with all requirements of the NSW Department of Planning Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008 (DNRCBR 2008).

#### **COMPLIANCE WITH TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINES 2017**

A22. The sign design, luminance, and sign operation levels must be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 requirements and relevant Australian Standards.

#### **ADVERTISEMENTS GENERALLY**

A23. Advertisements displayed on the signage must be in accordance with the guidelines for sign content outlined in Section 3.6 of the Transport Corridor Outdoor Advertising and Signage Guidelines, dated November 2017.

#### **PERMITTED LUMINANCE LEVELS**

A24. The luminance levels of the advertising screen must comply with Australian Standard AS 4282-2019 Control of the obtrusive effects of outdoor lighting and must not exceed a maximum permitted luminance of 58 cd/m<sup>2</sup>.

#### **NIGHT LIGHTING CURFEW**

A25. The signage is not to be illuminated between the hours of 11 pm and 6 am Monday to Sunday.

#### **ADVERTISEMENTS - TEXT**

A26. Advertisements displayed on the signage must minimise the amount of text and information displayed (for example no more than a driver can read at a short glance). Text shall be displayed in the same font and size.

#### **ADVERTISEMENTS – TRAFFIC CONTROL DEVICE OR DRIVING INSTRUCTIONS**

A27. Advertisements displayed on the signage must not be capable of being mistaken:

- a) for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device; or
- b) as text providing driving instructions to drivers (see also **Condition B2**).

#### **ADVERTISEMENTS – DISTRACT DRIVERS**

A28. Advertisements shall not contain animations, videos, flashing, or variable content.

#### **PUBLIC BENEFIT**

A29. The Applicant must provide public benefits in accordance with the terms contained in the Public Benefit Offer dated 25 May 2021 (which accompanied the Applicant's RtS Addendum dated 19 May 2022), or such other public benefit as agreed with Inner West Council.

A30. The Applicant shall provide interpretation of the history and heritage significance of the Glebe Island Silos, at a public place within the vicinity of the site, to the satisfaction of the Planning Secretary, unless the Applicant can satisfy the Planning Secretary that the Port Authority of NSW has, is or will undertake that work.

#### **LEGAL NOTICES**

A31. Any advice or notice to the consent authority shall be served on the Planning Secretary.

**END OF PART A**

## **PART B POST COMMENCEMENT OF USE**

### **MAINTENANCE**

- B1. Regular maintenance of the approved advertising structures shall be undertaken, and the sign is to be inspected regularly to identify any damage from storms, graffiti or the like.

### **ADVERTISING SIGNAGE CONTENT**

- B2. The approved advertising structures must not have or use:
- (a) flashing or flickering lights or content;
  - (b) electronically changeable messages
  - (c) animated display, moving parts or simulated movement
  - (d) complex displays that hold a driver's attention beyond "glance appreciation"
  - (e) displays resembling traffic control device by use of colour, shape or words that can be construed as giving instruction to traffic for example red, amber or green circles, octagons, crosses, triangles and words such as 'halt' or 'stop';
  - (f) a method of illumination that distracts or dazzles; or
  - (g) dominant use of colours red or green.

Signage content must also comply with all conditions contained in Part A of this consent and be in accordance with the road safety guidelines for sign content, set out in the Guidelines.

### **LOCATION OF CERTAIN NAMES AND LOGOS**

- B3. The name or logo of the person who owns or leases the approved advertisement may appear only to the bottom of the advertising structure and must be no greater than 0.25 m<sup>2</sup> in size.

### **REMOVAL OF GRAFFITI**

- B4. The owner/manager of the site or sign must be responsible for the removal of all graffiti from the advertisement within 48 hours of notification.

**END OF PART B**

## ADVISORY NOTES

### APPEALS

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* (as amended).

### OTHER CONSENTS AND PERMITS

AN2. The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other consents under Section 68 (Consents) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.

### RESPONSIBILITY FOR OTHER CONSENTS AND AGREEMENTS

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### MOVEMENT OF TRUCKS TRANSPORTING WASTE MATERIAL

AN4. The Applicant must notify the Roads and Maritime Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the subject site, prior to the commencement of the removal of any waste material from the subject site.

### DISABILITY DISCRIMINATION ACT

AN5. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

### USE OF MOBILE CRANES

AN6. The Applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied and submitted to the Certifier:

- (a) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council:
  - (i) at least 48 hours prior to the works for partial road closures which, in the opinion of the relevant road authority will create minimal traffic disruptions; and
  - (ii) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of the relevant road authority, will create significant traffic disruptions.
- (b) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.00 am without the prior approval of the relevant authority.

### COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN7. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an consent from the Commonwealth Environment Minister.

AN8. This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Agriculture, Water and the Environment to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

## END OF ADVISORY NOTES