



File Ref: DA 22/7946- EX/2024/0008



26 March 2024

Department of Planning, Industry & Environment
Locked Bag 5022
Parramatta
NSW 2124

Dear Mr Neely,

New Request for Advice – Digital Signage Application – Enmore Road, Newtown

Thank you for providing Council with the opportunity to comment on the development proposal.

Council has reviewed the additional information and in summary, it is considered that the amended proposal still fails to satisfy relevant planning objectives and controls, is inappropriate to the character of the area and does not provide a public benefit. Following on from Council's previous letters dated 20 October 2022 and 22 May 2023, the following concerns are yet to be satisfactorily addressed:

- Consistency with the underlying objectives of the *EP&A Act 1979* – The sign is still not considered to promote good design within an area of high built and cultural heritage value and of prominent Aboriginal significance, and the sign is not considered to promote good amenity for existing local residents and future residents in close proximity.
- Permissibility – Further details of this matter are discussed below.
- Heritage and Local Character – Further details of this matter are discussed below.
- The amended proposal still has not demonstrated that it satisfies the requirements of *Part 3 – Transport Corridor Advertising and Signage Guidelines* and *Schedule 5 – Assessment Criteria* under SEPP (Industry and Employment) 2021, the aims and objectives of the Inner West Local Environmental Plan 2022 and the requirements of Part 8 under the *Marrickville Development Control Plan 2011*.
- Visual impacts to surrounding residential properties – Further details of this matter are discussed below.
- Traffic and pedestrian safety – Further details of this matter are discussed below.



- Impacts to the Public Domain and Entertainment Precinct – The response provided by the applicant has been considered, however Council does not agree with this response and the subsequent impacts that the proposal will have on the public domain and Enmore Road Entertainment Precinct for the reasons that have been outlined below.
- Public Benefit and Interest – The amended documentation still fails to demonstrate a direct public benefit provided by the proposal, such as a framework/mechanism to support the public benefits stated under Part 6.8 of the Statement of Environmental Effects along with the Public Benefit Statement. Council does not agree that the public benefits stated by the applicant outweigh the adverse impacts that the signage will have on the surrounding locality.

Ultimately, the applicant's response has not addressed many of Council's concerns that have been previously raised.

Permissibility & Zone Objectives

As previously noted, the location of the sign is within *SP2 – Rail Infrastructures Land*, under the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*. The applicant notes that regardless of permissibility under the IWLEP 2022, the proposed sign is permissible with consent under Clause 3.14 of State Environmental Planning Policy (Industry and Employment) (Industry and Employment SEPP) as it is on behalf of Sydney Trains and is within a railway corridor. Council disagrees with this position for the following reasons:

- The proposal relies on Clause 3.14 of the Industry and Employment SEPP for permissibility, with no detail provided regarding any advertising by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW.
- The applicant acknowledges that the specific detail of each advertisement is not yet known. However, Council contends this is an imperative requirement in order for the proposal to be permissible under Clause 3.14 of the Industry and Employment SEPP.
- The use of outdoor advertising in a given locality should not be inconsistent with the land use objectives for the area outlined in the IWLEP 2022. For the reasons previously mentioned in Council's submissions to DPIE, the proposal is inconsistent with the objectives of the *SP2 – Rail Infrastructures* zone under the IWLEP 2022, given that the sign is not identified to provide any function that would be considered ordinary, incidental or ancillary to the railway.

As a result, Council maintains that the Minister must not grant consent to the sign.

Heritage and Local Character

As noted in Council's previous letters, the subject site is identified as being located within a heritage 'rich' area, is within the vicinity of numerous heritage items as identified under the *IWLEP 2022* and *Sydney Local Environmental Plan 2012*. The site is within the curtilage of the State listed Newtown Railway Station and is located within the King Street and Enmore Road Heritage Conservation Area.

The updated proposal fails to demonstrate how the issues raised in relation to impacts upon Heritage and Local Character have been satisfactorily addressed. Minimal changes have been



proposed to the height, bulk and scale of the signage, given that the visual screen size is of an identical area to previous submissions. The major amendment of note relates to the depth of the signage, being reduced from 590mm to 450mm, however the height of the structure has increased. As a result, the reasons previously outlined as to why the signage is not considered to be suitable for the subject site remain of concern.

The Statement of Environmental Effects (SEE) states that the proposed sign will be relocated outside the State listed "Newtown Railway Station group and Former Newtown Tramway Depot", will no longer be physically attached to the King Street Overbridge and states the proposed works do not require referral to Heritage NSW under S.60(1) of the NSW Heritage Act 1977.

Six (6) existing static signs with a total area of 30m² are proposed to be removed from the King Street Overbridge to the east and west of the bus stop. As the overbridge is located within the SHR curtilage, the applicant will need to demonstrate that the removal of the signs from the overbridge may be carried out in accordance with the Heritage NSW Standard Exemptions. Otherwise, the proposal will need to be referred to Heritage NSW under S.60 of the NSW Heritage Act 1977.

Heritage NSW previously provided 6 reasons for refusal dated 6 January 2023, in accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979. The Heritage Impact Statement (HIS) submitted with the current application responds to these reasons. Both of the reasons and the responses are reiterated below, including a response as part of this heritage assessment in respect to the current proposal.

Heritage NSW Reason for refusal	Wier Phillips Response to the revised proposal	IWC Heritage Referral response to the revised proposal
<i>The Newtown Railway Station group and Former Newtown Tram Depot is a place of State heritage significance that is protected on the State Heritage Register for its historical, associative, aesthetic, technical, social, representative and rarity values. The proposed LED-illuminated signage will have a detrimental impact on its aesthetic and social values.</i>	<i>The amended proposal has relocated the proposed signage so that it now lies outside of the curtilage of this State Heritage item. The proposed signage is now in an unobtrusive spot and will read, where visible in conjunction with the item, as a background element that is neither detracting from the streetscape, or prominent in any way.</i>	<p>Relocating the proposed sign outside the SHR curtilage does not mean it is "now in an unobtrusive spot". The proposed sign will still impact on the aesthetic significance of the State listed "Newtown Railway Station Group and Former Tram Depot".</p> <p>The overhead booking office and King Street Overbridge contribute to the aesthetic significance of the State listed "Newtown Railway Station Group and Former Tram Depot". The signage will impact on views to these items and their curtilage from the public domain which will impact on the aesthetic significance by introducing uncharacteristic</p>

Heritage NSW Reason for refusal	Wier Phillips Response to the revised proposal	IWC Heritage Referral response to the revised proposal
		<p>visual clutter within the vicinity.</p> <p>It is disagreed that the sign will be read as a background element and will not be detracting from the streetscape. With a display area of 14.93m² (4.708m x 3.172m) a visual screen size of 14.16m² (4.608m x 3.072m) and at a height of 8.15m above the ground level, the proposed freestanding digital advertising sign is not sympathetic with the character of the streetscape.</p>
<i>The proposed signage produces unequivocal visual clutter to its surrounding environment.</i>	<i>The amended proposal will result in the complete removal of all existing static signage on the King Street Overbridge, which will substantially reduce the visual clutter in the surrounding environment. The proposal will also move the proposed signage to a more discreet location that does not contribute visual clutter to the surrounding environment.</i>	Relocating the proposed signage approximately 25m to the south-west along Enmore Road does not remove the visual clutter from the surrounding environment especially when the current proposal retains the same display area of 14.93m ² (4.708m x 3.172m) and the same visual screen size of 14.16m ² (4.608m x 3.072m).
<i>It is inappropriate in size and scale and dominates and detracts from the aesthetic character of the SHR Item and its surrounding historical setting.</i>	<i>The proposed signage, while already relatively small compared to other streetscape elements, has been reduced in depth and bulk. The impact has been further mitigated by relocating the signage outside the curtilage of the State Heritage item.</i>	<p>A display area of 14.93m² is not considered to be “relatively small”. It is not clear what “other streetscape elements” are being referred to and should not be compared with built forms of buildings.</p> <p>Though it is agreed the depth of the sign has been reduced (from 1.05m to 450mm), it is disagreed that the bulk has been reduced when the sign retains the same display area dimensions and the overall</p>

Heritage NSW Reason for refusal	Wier Phillips Response to the revised proposal	IWC Heritage Referral response to the revised proposal
		<p>height has been increased by 933mm, from 7.217m to 8.15m above ground level.</p> <p>Relocating the sign out of the SHR curtilage may reduce the physical impact on the heritage significance of the “Newtown Railway Station Group and Former Tram Depot”, but there is still an impact on its aesthetic significance.</p>
<i>It alters the sense of place of the locality as it negatively impacts the views and vistas created towards the SHR item along the Kings Street and Enmore Road streetscapes.</i>	<i>The amended proposal has relocated the signage to an unobtrusive spot which lies outside the curtilage of the State Heritage item. The signage will be visible, however, will be visible in conjunction with the numerous other elements that form part of the views and vistas towards the item along the King Street and Enmore Road streetscape, which is a busy commercial corridor already characterised by existing advertising signage.</i>	It is disagreed that the new location of the sign is “an unobtrusive spot” as it remains highly visible from the public domain. The visibility of the proposed sign is demonstrated in the indicative views provided in the Visual Impact Assessment. Though there is already existing signage in the vicinity, there is no other LED signage of a comparable scale within the vicinity.
<i>It is not possible to mitigate or minimise these impacts through conditions of approval.</i>	<i>The amended proposal has mitigated these impacts by relocating the proposed signage so that it does not impact on the fabric of, or significant view corridors towards, the State Heritage item.</i>	The revised location will still impact on the aesthetic significance and views to the State listed “Newtown Railway Station Group and Former Tram Depot”.
<i>The application will result in a permanent detrimental impact to the overall significance of the SHR item.</i>	<i>The amended proposal will no longer result in a permanent detrimental impact to the overall significance of the item due to its removal to a more considered, discreet location that does not impact on the fabric of the item, or on significant view corridors towards it.</i>	The sign will still impact on views to the State listed “Newtown Railway Station Group and Former Tram Depot” and the aesthetic significance of the item.



As a result, the proposal is still not considered to satisfy the following heritage and character objectives and controls under the *IWLEP 2022* and *MDCP 2011*:

Inner West Local Environmental Plan 2022

Clause 1.2 – Aims of Plan:

(2) The particular aims of this Plan are as follows -

- (b) to conserve and maintain the natural, built and cultural heritage of Inner West,*
- (h) to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,*
- (i) to prevent adverse social, economic and environmental impacts on the local character of Inner West*

Clause 5.10 – Heritage Conservation:

(1) Objectives. The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Inner West,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

Marrickville Development Control Plan 2011

Part 2.12 – Signs and Advertising Structures:

- *O1 – To ensure all advertising achieves a high level of design quality and is compatible with the architectural design of the host building, the character of the streetscape and the size and juxtaposition of other signs in the immediate vicinity.*
- *O2 – To ensure signage does not dominate or detract from the architectural features of the building and from the white-way lighting found along some retail strips.*
- *O3 – To ensure advertising does not cause amenity loss or have a detrimental effect on the natural or built environment or the safety, appearance or efficiency of any public area.*
- *O4 – To ensure the location and design of signs are consistent with road safety principles.*
- *O5 – To ensure the use of corporate logos, colour and illumination schemes in signage are compatible with the architecture of the host building and do not adversely impact upon the local streetscape.*
- *O6 – To ensure signage retains the visual prominence and integrity of the roof and silhouette form of the business centre.*
- *O8 – To ensure advertising does not result in visual clutter or other visual impacts upon a locality.*
- *C1 – The following are generally prohibited:*
 - i. Advertising involving flashing or moving signs;*
 - ii. Any sign not permanently fixed to the premises;*
 - iii. Any sign which would adversely affect traffic lights or obstruct motorists' vision at an intersection or entering or leaving a vehicle crossing;*



- iv. *Signs extending over street boundaries, other than those permitted in conjunction with shops or the like where buildings are erected on the street alignment and pole or pylon signs;*
 - vii. *Other than under awning and top hamper signs, any signs illuminated between 10.00pm and 7.00am (the following day) on land in or abutting residential zoned areas or that adjoins a predominately residential use;*
- **C3 – Signage location:**
 - ii. *The scale and location of a sign must be compatible with the architectural design of the building to which it is affixed and consider nearby buildings, streets and other existing signs. Important architectural features must not be obscured by signage and must remain the dominant feature of the façade;*
 - v. *Signage must not extend into the corridor of string of pearl lights (also known as white -way lighting) and be closer than 700mm to the light fitting;*
 - vii. *The number of existing signs on a building, site or adjoining streetscape must be considered to ensure the new sign does not give rise to visual and/or physical clutter;*
 - viii. *In deciding the location for a sign, the view of the sign and any supporting structure, cabling and conduit from all angles must be considered including visibility from the street and nearby higher buildings and against the skyline;*
- **C21 – Advertising in SP1, SP2, RE1, RE2, E2 and W1 zones will only be permitted:**
 - i. *Where the applicant shows a justifiable need;*
 - ii. *Where the amenity of the area will not be detrimentally affected; and*
 - iii. *After consideration of the general merits or otherwise of the application.*

Part 8 – Heritage:

- **Part 8.1.7.1, C1 – Heritage items must be conserved, and new development must not diminish the significance of the item.**
- **Part 8.2.4 – King Street and Enmore Road Heritage Conservation Area:**
 - **O1 – To ensure signage is sympathetic to and complements the building form and detailing along King Street and Enmore Road.**
 - **O2 – To ensure signage does not dominate or detract from the architectural features of the buildings and from the white-way lighting.**
 - **O3 – To ensure signage retains the visual prominence and integrity of roof and silhouette.**
 - **Part 8.2.4.5, C14 – Colours used for signs must complement the Heritage Colour Scheme.**
- **Part 9.37 – King Street and Enmore Road (Commercial Precinct 37), Strategic Context, Marrickville Development Control Plan 2011:**



- 9.37.2 (1-3) – *Desired Future Character: The sign will not protect the identified Heritage Items, Heritage Conservation Areas and character of streetscapes and public domain.*

Visual impact upon Residential Properties

It is acknowledged that additional information within the Visual Impact Assessment (VIA) has been provided to confirm the impacts to the surrounding residential properties, particularly to the nearest residential properties along Bedford Street. Following a review of this information, Council still considers that the signage will present an adverse visual impact to the surrounding residential properties. Concern is still raised that the overall height and the visual screen size of the signage has not been reduced. The sign still extends above the railway line, and thus will be visually obtrusive to the surrounding residential properties.

The applicant has stated that the proposal will comply with all relevant requirements of AS 4282-2019: *Control of the Obtrusive Effects of Outdoor Lighting*, and that the signs do not emit light backwards whereby the residential properties to the east/rear of the sign will receive no illuminance during the night-time operation. However, no elevations have been submitted which clarify the visibility of the signage during the night-time period from Bedford Street. The proposal still seeks illumination 24 hours a day, Council's position is that adverse impacts will be presented upon the residential amenity for properties along Bedford Street as a result of on-going glare and light spillage that is caused by the proposal. This has also considered the fact that post curfew illumination limits are being proposed, which require the signs illumination to be substantially lower between the hours of 11pm and 6am daily. Council questions the necessity for such extensive hours at maximum illumination, and the necessity at all for illumination between 9:00pm and 7:00am.

Council's letter dated 20 October 2022, requested details to demonstrate view lines from the existing shop top housing developments along Enmore Road. The vantage points from these properties still have not been adequately demonstrated, given that Figure 24 within the submitted VIA contends that the private open space areas for these dwellings face internally within the site and away from Enmore Road. However, each dwelling has a balcony directly adjacent to a principal living area which adjoins Enmore Road. Therefore, the assessment does not adequately consider how the amenity of these dwellings would be affected by the proposal.

Traffic & Pedestrian Safety

Whilst it is acknowledged that Transport for NSW (TfNSW) have provided concurrence, the SEE contains conflicting information to demonstrate how the proposal satisfies road safety requirements under SEPP Industry and Employment or the Transport Corridor Advertising and Signage Guidelines 2017. The SEE states that the sign would not display colours and shapes which could be mistaken for a traffic signal or would not contain interactive technology or technology that enables opt-in direction communication with motorists, yet no details of the advertisements have been provided to enable confirmation how the signage would satisfy these requirements. As insufficient information is provided in relation to the contents of future advertising, it is yet to be demonstrated how the proposed signage satisfies the relevant road safety principles, and objectives of the applicable environmental planning policies.



Tree Management

Given that the sign has been relocated 30m west of its existing location along Enmore Road, the amended proposal directly adjoins 3x *Ficus Rubignosa* (Port Jackson Fig) that are located within the rail corridor.

The submitted *Arboricultural Impact Appraisal and Method Statement* prepared by Andrew Scales, dated 8 December 2023 and drawings have been reviewed. It is unclear how the Arborist has concluded that the proposal will have minimal impact on the adjoining vegetation, given that section 2.2.1 of the submitted report states that all dimensions were estimated since access was unavailable. Furthermore, the accuracy of the submitted Tree Management Plan is questioned, given the Arborist advised that there was no access to the site.

Notwithstanding the above, detailed advice on the proposal and the impacts to the affected trees is currently unable to be provided as the submitted information is considered to contain significant deficiencies, lacks accuracy and is ultimately unclear.

Conclusion

In summary, Council strongly objects to the proposed sign due to the issues raised in this letter, along with the previously aforementioned submissions. The proposal does not satisfy any of the relevant State or Local planning policies, including the objectives and controls contained within. The proposal results in permanent detrimental impacts to the State heritage item and surrounding area, whilst failing to demonstrate adequate public benefits. Council therefore recommends that DPIE refuse the application.

We would invite the Applicant and the DPIE Team to meet with Council to discuss this proposal and future proposals that may be considered.

If you need any further assistance in relation to the above matters, please contact Sean Wilson on 9392 5065 or email sean.wilson@innerwest.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read "R. Osman".

Ruba Osman
Development Assessment Manager