

Our ref: PAN-381735 – DA 23/14504

Mr Greg Attewell
Transport Asset Holding Entity of New South Wales
36-46 GEORGE STREET
BURWOOD NSW 2134

13 December, 2023

Subject: Lot 30 DP 1254499 – Sydney Park Road, Erskineville. Digital Advertising Signage (PAN-381735). Request for Response to Submissions – further Council submissions

Dear Mr Attewell,

I refer to the above Part 4 development application for a proposed digital advertising signage at Sydney Park Rd, Erskineville that was lodged on 10 November 2023 (PAN-381735).

The Department publicly exhibited the proposal from 22 November 2023 until 5 December 2023 and notified relevant public authorities and neighbouring land owners. The Department received preliminary comments from City of Sydney Council and Inner West Council during the exhibition period and on 5 December 2023 and a request for a Response to Submissions (RtS) was provided to you. The letter of request noted that the councils may provide additional comments and that these would be sent to you for consideration.

The Department has received further comments from the two councils to complement their submissions. Copies of the comments are enclosed for your consideration.

The Department requests that you review and respond to the issues raised in the attached council submissions, with the view of providing additional information under clause 36 of the *Environmental Planning and Assessment Regulation 2021* (the Regulation). At the date of this letter, 26 days in the assessment period have elapsed.

This letter does not trigger an additional Request for Response to Submissions (RtS) separate to the RtS requested in the Department's letter of 5 December 2023.

The Department reminds you that you are requested to provide a response to all submissions by **12 January 2024** via the NSW Planning Portal. If you are unable to provide the requested information within this timeframe, you are required to provide, and commit to, a timeframe detailing the provision of this information. In accordance with Part 4 Division 4 of the Regulation, the assessment period ceases to run from the date of the first request until the information is provided.

Please note that government agencies may provide additional comments. A subsequent letter will be sent to you in due course requesting consideration of any additional advice received as well as assessment issues raised by the Department.

Department of Planning and Environment



If you have any questions, please contact Chris Fraser on (02) 9995 6321 or via email at christopher.fraser@planning.nsw.gov.au

Yours sincerely,

M. Garbarino

as delegate for the Minister for Planning and Public Spaces

Enclosed : detailed Submissions from;

- City of Sydney
- Inner West Council

11 December 2023

Our Ref: R/2023/25
File No: 2023/701255
Your Ref: DA 23/14504

Chris Fraser
Senior Planning Officer
Department of Planning and Environment
4 Parramatta Square, Parramatta NSW 2124

By email: Christopher.Fraser@planning.nsw.gov.au

Dear Chris,

DA 23/14504 – Digital Signage and Monopole – Sydney Park Road, Erskineville

Thank you for your correspondence dated 20 November 2023 inviting the City of Sydney (the City) to comment on the abovementioned development application.

The development application involves the installation of a digital third-party advertising sign and monopole within the rail corridor, adjacent to and orientated towards Sydney Park Road, Erskineville.

The proposed signage measures 8m x 2.64m and is illuminated using LEDs. Advertisements will have a minimum 10 second dwell time, with 24 hour operation, 7 days a week.

The City has reviewed the documents submitted with the development application and **objects to the proposed development.**

The following particular issues are raised for your consideration:

1. Encroachment

The proposed signage structure's camera arm encroaches Council land. Owner's consent from the City has not been obtained to lodge the application. Consent cannot be granted to the application in its current form.

2. Design Excellence

In accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012 (SLEP 2012), development consent must not be granted to development unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

The proposed digital third-party advertising signage and monopole does not demonstrate design excellence when having regard to the specific matters for consideration outlined in Clause 6.21C(2) of the SLEP 2012. Specifically, this proposal:

- does not demonstrate a high standard of architectural design, materials and detailing appropriate to the location;
- does not provide a form and appearance that will improve the quality and amenity of the public domain;
- adversely impacts on view corridors;
- is of an inappropriate scale in this location; and
- does not demonstrate excellence with integration of landscape design.

3. Public Benefit

The consent authority should not be satisfied, as required by Subsection 3.11(2)(b) of SEPP (Industry and Employment) 2021 (the SEPP), that the proposed advertisement is acceptable in terms of *“(iii) the public benefits to be provided in connection with the display of the advertisement.”*

The public benefit statement submitted with the application relies on public benefits to Sydney Trains on page 2, in addition to the projected revenue stream generated through the display of advertising. This includes the use of the proposed signage to display Sydney Trains information in various circumstances.

However, given the proposed signage is oriented towards Sydney Park Road and Sydney Park it cannot be considered that the claimed public benefit to Sydney Trains users would be realised. The proposed messaging would have no benefit to the function or safety or the rail network. Whilst it is appreciated that the revenue generated will be invested back into the public transport network, this is an existing core responsibility of Sydney Trains. The City considers that the public benefit requirement therefore has not been adequately achieved.

Additionally, new third-party signs and advertisements are generally not permitted in the City in accordance with Provision 3.16.7.1(1) of Sydney Development Control Plan 2012 (SDCP 2012). Section 3.16.7.2 of SDCP 2012 outlines that new advertising signs and third-party advertisements are generally only appropriate when converting an existing billboard sign to a digital billboard.

When this occurs, Provision 9 specifies that the sign must provide a public benefit, being 10% of the advertising time being made available to the City to display public information, community messages or promotion of Council events and initiatives. Alternatively, this provision also allows for other public benefits in lieu of advertising time.

Provision 3.16.7.2(9) of the DCP is to be applied through the consideration of the SEPP and is entitled to significant weight. The City considers that compliance with both Section 3.11(2)(b)(iii) of the SEPP and Provision 3.16.7.2(9) of the DCP should be demonstrated concurrently. This has not been considered in the current proposal.

Should the application be considered for approval, the City requests that 6 mins per hour be made available to the City, free of charge, to display public information, community messages or promote Council events and initiatives in the City of Sydney area.

4. SEPP (Industry and Employment) 2021 Assessment Criteria

Having regard to the assessment criteria in Schedule 5 to SEPP as required by Subsection 3.11(1)(b), the proposed signage is not considered to be acceptable in terms of its impact for the following reasons:

- Regarding criteria 2 *Special areas*, the proposed signage is located opposite Sydney Park. The construction of a large free-standing structure, solely for advertising, does not positively contribute to the landscape setting of the park or the locally heritage-listed Sydney Park brick kilns.
- Regarding criteria 3 *Views and vistas*, the proposed signage would compete with and detracts from the viewing rights enjoyed by the existing static wall sign located along the southern elevation of 672 King Street, Erskineville which backdrops the proposed signage. The proposed signage results in visual clutter in this location.
- Regarding criteria 4 *Streetscape, setting and landscape*, the proposed signage would project above the skyline when viewed along from the east along Sydney Park Road and detracts from views to the open sky. The scale of the proposed signage is overbearing and does not positively contribute to the streetscape or the amenity of the public domain for pedestrians.
- Regarding criteria 7 *Illumination*, the proposed signage is located directly adjacent to the seven-storey residential flat building at 241-245 Sydney Park Road which has living areas and balconies facing the proposed signage. The dynamic light spillage is likely to unreasonably impact the amenity of these apartments.
- Regarding criteria 8 *Safety*, the proposed signage would be backdropped by the existing static wall signage identified above, causing visual clutter, and could distract drivers travelling westbound along Sydney Park Road. The Signage Safety Assessment submitted with the application inaccurately states that the existing static wall sign would not be visible concurrently. The Transport Corridor Outdoor Advertising and Signage Guidelines states that "*sign spacing should limit a drivers' view to a single sign at any given time with a distance of no less than 150m between signs in any one corridor*". This would not be achieved. The proposed signage would reduce the safety of the road, which is considered to be an unacceptable impact.

5. Tree Protection

An arborist report has not been submitted with the application to allow an assessment of the potential impact to the street trees along Sydney Park Road located within proximity to the proposed construction site. Should the application be approved, tree protection measures should be implemented during construction to protect all street trees.

6. Energy Consumption

Provision 3.16.4 (6) of SDCP 2012 states: "*Where the consent authority is of the opinion that an illuminated sign or advertisement is expected to generate high levels of energy*

use based on size, hours of operation or illumination source, the signage is to be powered by:

- (a) onsite renewable energy of a capacity to provide the energy required to illuminate the sign; or*
- (b) the purchase of a renewable energy product offered by an electricity supplier equivalent to the estimated annual amount of electricity used."*

The SEE states that 'the sign will be powered by the nearest outside supply.' This does not adequately address the above SDCP 2012 requirement and is inconsistent with ESD principles.

In summary, the **City objects to the proposed development.**

The proposed signage reduces the safety of Sydney Park Road and is inconsistent with The Transport Corridor Outdoor Advertising and Signage Guidelines.

The installation of a new digital advertising sign in this location does not demonstrate design excellence as required by Clause 6.21C of the SLEP 2012 and consent must not be granted.

Further, the application does not adequately address the matters for consideration as set out in Section 3.11 of the SEPP, particularly subsections (2) regarding the Schedule 5 assessment criteria and (3) in which the provision of a suitable public benefit has not been demonstrated.

The proposed signage causes unnecessary and undesirable visual clutter in this location, causes adverse visual and light spillage impacts, is inappropriate to the landscaped setting of Sydney Park. Therefore, the proposal is not considered to be in the public interest and is objected to by the City.

Should you wish to speak with a Council officer about the above, please contact Michael Stephens, Senior Planner, on 9265 9040 or at mjstephens@cityofsydney.nsw.gov.au

Yours sincerely,



Graham Jahn AM LFRAIA Hon FPIA
Director
 City Planning | Development | Transport



File Ref: EXTERNAL/2023/0011

13 December 2023

Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Fraser

Request for Comment – Digital Signage and Monopole – Sydney Park Road, Erskineville

Thank you for providing Council with the opportunity to comment on the development proposal. As discussed in your phone conversation on Tuesday, 5 December with Liam O'Connor (Council's Planner), we provide this response identifying Council's concerns with the proposed development.

Council has undertaken a review of the submitted information and it is considered that the proposed sign would be unsatisfactory for the following reasons:

1. Visual Impacts

The Statement of Environmental Effects (SEE) states on page 52 that the proposed sign *"will not have any additional visual impacts than those currently present"*. It is considered that the sign will have adverse visual impacts for the following reasons –

- The sign fails to achieve a high level of design quality and is not compatible with the character of the streetscape, the desired future character of the locality and the size of the sign is in juxtaposition with other signs in the immediate vicinity.
- The sign is of a scale, proportion and form that is inappropriate for the streetscape and its broader setting, as it will dominate and detract from the heritage items in the vicinity of the site.
- The sign will cause amenity loss and will have a detrimental impact on the appearance of a public area.
- The sign's illumination would result in unacceptable glare that is not subject to a curfew and would result in a loss of amenity to surrounding residential properties.
- The location and design of the sign is not consistent with road safety principles, as it would reduce the safety of King Street and Sydney Park Road, including the safety for pedestrians and bicyclists.
- Insufficient detail has been provided to carry out an assessment of the proposal as no elevation plans have been submitted and as such no adequate contextual analysis has been given.
- The 24-hour LED illumination of signage that is 16.25sqm in area is not compatible with the nearby Heritage Conservation Areas (HCA's) and



adversely impacts upon the local streetscape and the amenity of surrounding residential areas. There are no other digital signs of a similar size in the vicinity of the proposed sign.

2. Light Spillage

The proposed sign is to be illuminated 24 hours a day, seven days a week. The VIA states that a maximum luminance of 120 cd/m² during the night-time period will be applied. However, no further details have been submitted to provide an understanding of the sign's luminance during this period.

Nonetheless, Council does not object on this basis. Council seeks the imposition of the following condition or similar being imposed, should the Department of Planning and Environment (DPE) be of a mind to approve the proposed sign:

“Signage lighting must comply with the following requirements:

- a) The operation of the digital sign must comply with the requirements in Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (refer to Section 2.5.8, Table 3 and Section 3.3) and relevant Australian Standards, as amended from time to time.*
- b) The proposed luminance levels shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards. In addition, the images displayed on the sign must not contain/use:*
 - Flashing or flickering lights or content;*
 - Animated displays, moving parts or simulated movement;*
 - Complex displays that hold a driver's attention beyond “glance appreciation”;*
 - Displays resembling traffic control devices 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 ‘stop’ or ‘halt’;*
 - A method of illumination that distracts or dazzles;*
 - Dominant use of colours red or green”*

3. Impact on the Heritage Conservation Area and Heritage Items

The subject site is located in close proximity to the following HCA's and heritage items identified under Schedule 5 of *Inner West Local Environmental Plan 2022 (IWLEP 2022)*:

- King Street and Enmore Road (C73);
- Goodsell Estate (C85);
- St Peters Railway Station group, including interiors (I1733);
- Sydney Park Hotel, including interiors (I1329).

There are also heritage conservation areas and heritage items in close proximity to the subject site identified in the *Sydney Local Environmental Plan 2012*.

The Heritage Impact Statement (HIS) lodged in support of the application advised that the proposed sign would not have an adverse impact on upon the heritage significance of the heritage conservation areas and heritage items in the vicinity of the proposed sign.



Council disagrees with this advice, and objects to the proposed sign on the following bases:

- The height and bulk of the proposed sign will be visible from the State heritage listed 'St Peters Railway Station group', and locally listed 'Sydney Park Hotel' and 'King Street' and Enmore Road Conservation Area'. The sign will have a visual impact on the vicinity of the above items and HCA. It is recommended that the sign dimensions and height be considerably reduced to mitigate the impact of the sign on the heritage items and HCA's in the vicinity.
- The sign fails to achieve a high level of design quality, is not compatible with its surroundings and obscures sightlines to prominent and important heritage items.
- The proposal will define the character of the streetscape and result in a poor outcome
- The size of the sign is excessive
- The sign will result in visual clutter having regard to the large prominent sign already located on the side facade of 672 King Street, multiple signs on the rail bridge along King Street and the bus stop in the immediate vicinity of the proposed sign on Sydney Park Road. The saturation of signage within the radius of the proposed monopole sign is excessive and unwarranted.
- The proposal will not ensure that advertising does not result in visual clutter or other visual impacts upon the locality.

Should DPE be of a mind to approve the proposed sign, Council seeks the imposition of a condition reducing the sign dimensions and height to reduce the impact of the sign on the nearby heritage items and heritage conservation areas in the vicinity of the subject site.

4. Lack of public benefit

One of the aims/objectives of the Industry and Employment SEPP and a matter for consideration is how the public benefits from the proposal, with the aim being:

e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors

The Applicant has advised that the public benefit derived from the proposal is as follows:

"...all revenue generated by the proposed advertising sign will help fund essential Sydney Trains services to the benefit of the local community, including:

- *Improvements and maintenance programs*
- *ensuring the continued provision of clean, frequent, and reliable services for customers*
- *supporting the next generation of transport solutions online*
- *provision of emergency messaging and announcements to the public such as during:*
 - *station emergency situations*
 - *any major disruption which is likely to cause delays to train running times*



- *Sydney Trains and TfNSW promotions and events*
- *Threat-to-life alerts by NSW Government Emergency and Police Agencies*

The proposed new digital advertising signage will be capable of providing public benefit through availability to be used for an emergency or community message (e.g. display of information relating to major disruption to the operation of the surrounding road network which is likely to cause delays to traffic or emergency information). The emergency messaging system may be available to Sydney Trains and other NSW Government agencies such as NSW Police, NSW Health and Transport for NSW.

Further, Sydney Trains and Transport for NSW will also be able to display messages on the digital screens for up to 5 minutes per hour for customer and event promotions at no cost.”

It is considered that any revenue stream could assist with all of the above perceived benefits and there is no direct public benefit to how this sign will benefit the local area.

Conversely, the proposed sign is not considered to provide any planning public benefit as a result of not satisfying several State and Local planning objectives.

The SEE nor the Statement of Public Benefit do not provide any analysis to support a position that this proposal against any other potential proposals, signage or otherwise, are a means to achieve their objective. It is considered that to conclude that this is a means to provide a public benefit in the manner proposed that analysis of other proposals (signage or otherwise) would need to be assessed.

The SEE also claims that ‘all’ revenue generated by the sign will help fund essential Sydney Trains services. The SEE does not provide any framework and/or mechanism to support this claim, in terms of auditing the revenue received. This would appear to be a fundamental requirement in terms of ensuring probity to the revenue received and the public benefit claim

The SEE also does not provide any information to the amount of time given to ‘emergency messaging and announcements’ to support part of the public benefit claim. The lack of information in relation to this, provides a low level of certainty in that this could form part of any perceived public benefit.

It is considered that the SEE has not demonstrated the public benefit of the sign. It is therefore considered that there is no confidence in the overall claim and as a result the position that there will be a public benefit cannot be reasonably concluded.

It is considered that Sydney Trains considers alternatives to acquiring the revenue that is required and also a proposal which does not result in such a detrimental impact to a local area.



Conclusion

As outlined above, it is considered that the proposed sign does not satisfy relevant planning objectives and controls, is inappropriate to the heritage and local character of the area; and there is no public benefit to the sign.

It is also considered that the documents submitted misrepresent the proposal and do not accurately provide a comprehensive representation of the full impacts of the proposal. As a result, it is considered that the sign should be refused. However, should DPE be of the view that the proposed sign is acceptable, then Council requests that the above conditions be imposed.

We would invite the Applicant and the DPE 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 Liam O'Connor on 9392 5892 or email liam.oconnor@innerwest.nsw.gov.au

Yours faithfully

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

Ruba Osman
Manager Development Assessment