

Development Consent

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

As delegate for the Minister for Planning and Public Spaces, I 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.



Director
Transport and Water Assessments

Sydney

26 September 2024

SCHEDULE 1

Application Number:	DA23/16890
Applicant:	Transport for NSW
Consent Authority:	Minister for Planning and Public Spaces
Site:	Lot 13 DP 839591 Homebush Bay Drive overpass above the M4 Motorway
Development:	Continued use (for a period of 15 years) of an existing single-sided, illuminated static advertising sign attached to the east side of the Homebush Bay Drive overpass above the M4 Motorway at Homebush West.

DEFINITIONS

Applicant	Transport for NSW or any person carrying out any development to which this consent applies.
Certifying Authority	A person who is authorised by or under Part 6 of the EP&A Act to issue Part 6 certificates.
Conditions of this consent	Conditions contained in Schedule 2 of this document.
Construction	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 infrastructure permitted by this consent.
Council	Strathfield Council
Department	NSW Department of Planning, Housing and Infrastructure
Development	The development described in the Statement of Environmental Effects and technical reports listed in Condition A2 , including the works and activities comprising construction, operation and post commencement of operation, as modified by the conditions of this consent.
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
Feasible	What is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm to the environment, and as a consequence of that environmental harm, may cause harm to the health and safety of human beings, and which may or may not be or cause a non-compliance. Note: “material harm” is defined in this consent.
LED	Light-emitting diode
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act.
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual harm to the environment that may include (but not be limited to) a leak, spill, emission, other escape or deposit of a substance, and as a consequence of that environmental harm (pollution), may cause harm to the health or safety of people, or b) results in actual 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). <p>Note This definition excludes “harm” that is either authorized under this consent or any other statutory approval.</p> <p>Note: For the purposes of this definition, material harm excludes incidents captured by Work Health and Safety reporting requirements.</p>
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent.

Operation	The carrying out of the approved purpose of the development (i.e. use of the signage for the display of advertisements) from the date of consent.
Operator	The person or company responsible for the carrying out of the approved purpose of the development.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee.
Reasonable	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.
Subject site	The site as described in Schedule 1.
TfNSW	Transport for NSW

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 requirements or directions of the Planning Secretary including in relation to -
 - (i) the environmental performance of the development,
 - (ii) any document or correspondence in relation to the development,
 - (iii) any notification given to the Planning Secretary under the terms of this consent,
 - (iv) any audit of the construction or operation of the development,
 - (v) the terms of this consent and compliance with the terms of this consent (including anything required to be done under this consent), and
 - (vi) the carrying out of any additional monitoring or mitigation measures; and
 - (c) in accordance with the approved plans, drawings and reports in the tables below.

Design Drawings by JCDecaux				
Job No.	Sheet No.	Revision	Name of Plan	Date
HOM-OVE-1123	1 of 2	1	SITE PLAN	27 May 2024
HOM-OVE-1123	2 of 2	1	ELEVATIONS	27 May 2024

Technical Report	Revision	Author	Date
Response to Request for Information	-	Keylan	31 May 2024
Public Benefit Statement	-	Transport for NSW	25 October 2023
Static Signage Safety Assessment	V05	The Transport Planning Partnership	29 May 2024
Lighting Impact Assessment	B	Electrolight Australia	30 May 2024
Statement of Environmental Effects	2	Keylan	28 November 2023
Comparison of Design Codes with Current Codes	-	Dennis Bunt Consulting Engineers	22 May 2024

Technical Report	Revision	Author	Date
Structural Feasibility Statement	-	Dennis Bunt Consulting Engineers	16 November 2023
Maintenance Plan	-	JCDecaux	May 2024

- A3. The conditions of this consent and written requirements and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in the tables in **Condition A2(c)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in and **Condition A2(c)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

DURATION OF CONSENT

- A4. This development consent is issued for a limited period of 15 years. The consent will cease to be in force/expire 15 years after the date of consent.

***Note:** A new development application must be submitted prior the consent lapsing for assessment and determination if it is intended to seek approval to continue the use beyond the cessation date.*

PRESCRIBED CONDITIONS

- A5. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 4, Division 2 of the EP&A Regulation.

LEGAL NOTICES

- A6. Any advice, or notice to the consent authority, must be served upon the Planning Secretary via email at information@planning.nsw.gov.au. This does not apply to non-compliance notifications under **Conditions A17** and **A19**.

APPLICABILITY OF GUIDELINES AND STANDARDS

- A7. The approved sign and the supporting structure must meet all relevant Australian Standards, and any technical operational standards and requirements of TfNSW.
- A8. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Australian Standards or policies in the form they are in as the date of this consent, unless otherwise approved by the Planning Secretary.
- A9. 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.

DESIGN AND OPERATION

- A10. The proposed sign must be designed and operated in accordance with the requirements set out in the *Transport Corridor Outdoor Advertising and Signage Guidelines* (Department of Planning and Environment, 2017), and the documents listed in **Condition A2** as amended by the conditions of this consent.

DEVELOPMENT NEAR BUSY ROADS

- A11. The sign must comply with the relevant requirements of the NSW Department of Planning *Development Near Rail Corridors and Busy Roads – Interim Guidelines*, December 2008.

STRUCTURAL ADEQUACY

- A12. All new structures, and any alterations or additions to existing structures, that are part of the development, must be constructed in accordance with the relevant requirements of the National Construction Code, and any applicable Australian Standards. All structural works must be certified by a suitably qualified and practicing structural engineer.

Note: Under Part 6 of the EP&A Act, Crown building work cannot be commenced unless the Crown building work is certified by or on behalf of the Crown to comply with the Building Code of Australia. Part 6 of the EP&A Act also requires the Applicant to obtain construction and occupation certificates for the proposed building works.

WIND LOADING

- A13. The approved sign must meet wind loading requirements as specified in Australian Standard AS 1170.1:2002 *Structural Design Actions – Permanent, Imposed and Other Actions* and AS 1170.2:2021- *Structural Design Actions – Wind Actions*.

REFLECTIVITY AND GLARE

- A14. The level of reflectance of the materials used and advertisements must meet the requirements specified in AS/NZS 1906.1:2017 *Retroreflective materials and devices for road traffic control purposes*.
- A15. The signage structure must be orientated in a manner that does not create headlight reflection or glare in a driver's line of sight.

LOCATION OF CERTAIN NAMES AND LOGOS

- A16. The location of the name or logo of the entity who owns or leases the sign must comply with the requirements of section 3.18 of *State Environmental Planning Policy (Industry and Employment) 2021* and must be no greater than 0.25 m² in size.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A17. The Planning Secretary must be notified in writing to compliance@planning.nsw.gov.au immediately after or within 24 hours of the Applicant becoming 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 date, time, location and nature of the incident.

COMPLIANCES

- A18. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities that they carry out in respect of the development.

NON-COMPLIANCE NOTIFICATION

- A19. The Planning Secretary must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Planning Secretary in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A20. The notification required by **Condition A19** must identify the development and its application number, set out the condition of consent for which the development is non-compliant, the way in which the development 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, including the timeframe for implementing the actions.
- A21. A non-compliance which has been notified as an incident under **Condition A17** does not need to also be notified as a non-compliance.

END OF PART A

PART B – USE OF SIGNAGE

MAINTENANCE

- B1. Within one month of the date of this consent, a Maintenance Plan must be prepared to address, but not be limited to, the following matters:
- (a) an environmental and safety risk assessment;
 - (b) details on the frequency of structural inspections and audits and the aspects to be inspected / audited, with the first structural inspection occurring within four years from the date of consent and subsequent inspections conducted at four-year intervals or less;
 - (c) a checklist of the items to be maintained and the frequency of maintenance;
 - (d) the hours and frequency of inspections and routine preventative maintenance of the sign (to ensure minimal disruption of any surrounding residential amenity and traffic operations), including inspections to identify damage from storms and graffiti;
 - (e) safety, including preparation of a safe work method statement;
 - (f) maintenance of external lighting in compliance with *AS/NZS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting*;
 - (g) removal of graffiti, including timeframes for removal; and
 - (h) measures to treat any surface corrosion present on the signage structure.

A copy of the Maintenance Plan must be provided to the Planning Secretary on request.

- B2. The Maintenance Plan required by **Condition B1** must be implemented and regular maintenance must be undertaken in accordance with the Plan.
- B3. The sign must be inspected regularly to identify damage from storms, graffiti, or the like.
- B4. Parked vehicles associated with maintenance or construction activities must not at no time impede the movement of traffic on Homebush Bay Overpass or the M4 Motorway unless in accordance with a Road Occupancy Licence.

LIGHTING

- B5. The advertising signage must not exceed the maximum vertical illuminance limit, the maximum threshold increment and the maximum upward waste light ratio for A4 zones in Australian Standard *AS/NZS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting*, and must comply with the luminance levels in the table below:

Lighting Conditions	Max Permitted Luminance (cd/m2)
Day time	N/A – lighting is off during daytime
Night time	200

- B6. The existing lighting must be replaced with dimmable LED luminaires within one month of the date of consent.
- B7. The advertising structure must include a light sensor capable of automatically adjusting the luminance levels to comply with the requirements of **Condition B5**.
- B8. All signage floodlights must meet luminance criteria for non-digital signs set out in Table 5 of the *Transport Corridor Outdoor Advertising and Signage Guidelines* (Department of Planning and Environment, 2017).

ADVERTISING SIGNAGE CONTENT

- B9. The images displayed on the sign must not contain and/or use:
- (a) flashing or flickering lights or content;
 - (b) electronically changeable messages;
 - (c) animated display, moving parts, or simulated movement, including through fade, dissolve, or vertical or horizontal scrolling;
 - (d) complex displays, including information and text comprising a variety of fonts, styles and sizes which hold drivers' attention beyond "glance appreciation";
 - (e) patterns, symbols or displays that resemble traffic signals or may result in the advertisement being mistaken for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles, or shapes or patterns;
 - (f) text providing instruction to drivers such as, "stop" or "halt" or the like;
 - (g) a method of illumination that distracts or dazzles;
 - (h) technology that interacts with in-vehicle electronic devices or mobile devices; and
 - (i) dominant use of the colours red or green.

Signage content must also comply with all conditions in Part A of this consent and be in accordance with the road safety guidelines for sign content set out in *Transport Corridor Outdoor Advertising and Signage Guidelines* (Department of Planning and Environment, 2017).

WIRING

- B10. Any wiring must be contained behind the sign, or otherwise concealed, so that wiring is not visible from any public place.

REMOVAL OF GRAFFITI

- B11. The owner/manager of the site or sign must remove all graffiti from the advertising structure in accordance with the timeframes specified in the Maintenance Plan required by **Condition B1**.

ADVERTISING REVENUE/PUBLIC BENEFIT

- B12. The Applicant must record the total amount of outdoor advertising revenue that it receives each year in its financial accounts and Annual Reports. The Annual Reports must outline how revenue has been applied to provide a public benefit for transport safety, amenity improvements, or other public works. The Annual Reports must list specific works to which the funds have been, or are to be, applied.
- B13. The advertising structure must be made available for no less than 28 days each calendar year for the display of road safety messages at no cost to TfNSW, inclusive of TfNSW public notices/campaigns. The Applicant must maintain a log of what the advertisement(s) was and for how long it was displayed. The log must be maintained for the duration of the development consent. The log must be made available to the Planning Secretary on request, and within seven days of the request being made.

END OF PART B

PART C - DURING CONSTRUCTION

NOTIFICATION OF COMMENCEMENT

- C1. The Applicant must notify the Planning Secretary of the date of commencement of construction at least one month prior to commencing construction. The notification must be provided in writing via email to compliance@planning.nsw.gov.au.
- C2. A copy of the approved and certified plans, specifications and documents incorporating conditions of consent and certification (including structural plans approved by TfNSW engineers) must be made available for perusal by any officer of the Planning Secretary or Council or the Certifying Authority immediately upon request.

CONSTRUCTION HOURS

- C3. Construction is restricted to the following:
- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
 - (b) between 8:00 am and 1:00 pm, Saturdays; and
 - (c) no work on Sundays and public holidays,
- unless in accordance with a Road Occupancy Licence which allows for alternate hours.

ELECTRICAL SERVICES

- C4. The Applicant must comply with the requirements of the relevant utility provider in regard to the connection of electrical services.

END OF PART C

APPENDIX 1 - ADVISORY NOTES

APPEALS

- AN1. The Applicant has the right to appeal to the Land and Environment Court of New South Wales, in the manner set out in the *Environmental Planning and Assessment Act 1979* (NSW), and the *Environmental Planning and Assessment Regulation 2021* (NSW).

OTHER CONSENTS AND PERMITS

- AN2. The Applicant must apply to Council and/or TfNSW (as relevant) 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 of the *Local Government Act 1993* (NSW), and Section 138 of the *Roads Act 1993* (NSW).

RESPONSIBILITY FOR OTHER CONSENTS AND AGREEMENTS

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

DISABILITY DISCRIMINATION ACT

- AN4. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979* (NSW). No guarantee is given that the development complies with the *Disability Discrimination Act 1992* (Cth). The Applicant/owner is responsible to ensure compliance with this, and other anti-discrimination legislation. The *Disability Discrimination Act 1992* (Cth) covers disabilities not catered for in the minimum standards called up in the National Construction Code, 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* (Cth) currently available in Australia.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

- AN5. The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) 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 a consent from the Australian Environment Minister.
- AN6. This application has been assessed in accordance with the *Environmental Planning & Assessment Act 1979* (NSW). The determination of this application has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Australian Department of Climate Change, Energy, the Environment and Water in order to determine the need, or otherwise, for a Commonwealth consent. The Applicant should not construe this issue of consent, as notification that the Commonwealth Act does not have application to the development. The Commonwealth Act may have application, and the Applicant should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.