

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



Deputy Secretary
Development Assessment and Sustainability

Sydney

23 October 2024

SCHEDULE 1

Application Number:	DA 23/11560
Applicant:	Transport for NSW
Consent Authority:	Minister for Planning and Public Spaces
Site:	Pt Lot 75, DP 703159 Pedestrian overbridge across Cowpasture Road, Bossley Park
Development:	Use (for a period of 15 years) of an existing double-sided, illuminated static advertising sign situated above a pedestrian bridge over Cowpasture Road, Bossley Park.

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 buildings and other infrastructure permitted by this consent.
Council	Fairfield City Council.
Council-granted Consent	Development consent for 'Pedestrian Overhead Bridge and Advertising Signage' at Cowpasture Road, Bossley Park granted by Fairfield City Council on 27 April 1998 (DA 121/98) (as modified).
Department	NSW Department of Planning, Housing and Infrastructure.
Development	The development described in the SEE and technical reports listed in Condition A5 , including the works and activities comprising construction, operation and post commencement of use, 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	Environmental Planning and Assessment Regulation 2021.
Feasible	What is possible and practical in the circumstances.
Incident	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.
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act.
Material harm	Harm that: <ol style="list-style-type: none"> involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or 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).
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 from the date of consent.
Planning Secretary	Has the same meaning as the definition of the term in s1.4 of 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.
Response to Request for Information (RFI)	The Applicant's response to requests for additional information for the development under the EP&A Act.
SEE	Statement of Environmental Effects prepared by Gyde Consulting dated March 2024.
Subject site	The site as described in Schedule 1.
TfNSW	Transport for NSW.

SCHEDULE 2
PART A ADMINISTRATIVE CONDITIONS

MODIFICATION OF COUNCIL-GRANTED CONSENT

- A1. In accordance with section 4.17(1)(b) of the EP&A Act, this development consent modifies the Council-granted Consent by deleting conditions 7-12 of the Council-granted Consent such that those conditions no longer regulate advertising and/or 'general signage'.

DEFERRED COMMENCEMENT

- A2. In accordance with section 4.16(3) of the EP&A Act and section 76 of the EP&A Regulation, this development consent does not operate until the Applicant has notified Council, in accordance with section 67 of the EP&A Regulation, that the Council-granted Consent has been modified as set out in **Condition A1**.
- A3. If the Applicant does not notify the Council in accordance with **Condition A2** within 12 months of the date of this development consent, this development consent will lapse.

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A4. 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

- A5. 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.

In respect of ongoing monitoring and management obligations, compliance with an updated or revised version of a guideline, protocol, Australian Standard or policy required to be complied with under this approval;

- (c) in accordance with the approved drawings, plans and reports in the tables below:

Design Drawings by Arcadis Australia Pacific Pty Limited			
Sheet No.	Issue	Name of Plan	Date
DA.01	1	GENERAL ARRANGEMENT – SHEET 1	21 July 2023
DA.02	1	GENERAL ARRANGEMENT – SHEET 2	21 July 2023
DA.03	1	GENERAL ARRANGEMENT – SHEET 3	21 July 2023
Survey Plan by Project Surveyors			

Sheet No.	Name of Plan	Date
5593-1	SHEET 1 OF 1 – DETAIL SURVEY	2 November 2023

Technical Report	Revision	Author	Date
Statement of Environmental Effects (including appendix A)	Final	Gyde Consulting	March 2024
Lighting Impact Assessment	B	Electrolight Australia Pty Ltd	28 February 2024
Public Benefit Statement	-	Transport for NSW	18 July 2023
Site Card	B	oOh! media	20 November 2023
Structural Assessment	B	JMP Consulting Engineers	29 February 2024
Structural Assessment Letter	-	JMP Consulting Engineers	29 February 2024
Structural Condition Report	1	Arcadis Australia Pty Ltd	21 August 2023
Structural Statement	-	Arcadis Australia Pty Ltd	15 November 2023
Existing Southbound Static Sign Traffic Safety Assessment	002	Bitzios Consulting	22 February 2024
Existing Northbound Static Sign Traffic Safety Assessment	002	Bitzios Consulting	22 February 2024

- A6. 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 **Condition A5(c)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in and **Condition A5(c)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

DURATION OF CONSENT

- A7. 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 that the Applicant gives council notice, in accordance with **Condition A2**.
- A8. The sign must be removed, and the site reinstated in accordance with the requirements of TfNSW within 6 months of the consent ceasing to be in force, unless an alternative timeframe is agreed to by the Planning Secretary.

APPLICABILITY OF GUIDELINES AND STANDARDS

- A9. The approved sign and the supporting structure must meet all relevant Australian Standards, and any technical operational standards and requirements of TfNSW.
- A10. 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 at the date of this consent, unless otherwise approved by the Planning Secretary.

- A11. 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 or a replacement of them.

WIND LOADING

- A12. The approved sign 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

- A13. The visible light reflectivity from the proposed materials used on the signage structure (including the advertising skins) must not exceed 20 per cent and must be designed so as to minimise glare.

OPERATION OF PLANT AND EQUIPMENT

- A14. 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.

DESIGN AND OPERATION

- A15. 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), as described in the documents listed in **Condition A5** and amended by the conditions of this consent.

DEVELOPMENT NEAR BUSY ROADS

- A16. The sign must comply with all requirements of the NSW Department of Planning *Development Near Rail Corridors and Busy Roads – Interim Guidelines*, December 2008.

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.

NON-COMPLIANCE NOTIFICATION

- A18. 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.
- A19. The notification required by **Condition A18** 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.
- A20. A non-compliance which has been notified as an incident under **Condition A17** does not need to also be notified as a non-compliance.

PRESCRIBED CONDITIONS

- A21. The Applicant must comply with all relevant prescribed conditions of development consent under Part 4, Division 2 of the EP&A Regulation.

LEGAL NOTICES

- A22. Any advice or notice to the consent authority, must be served upon the Planning Secretary via email at information@planning.nsw.gov.au.

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) environmental and safety risk assessment;
 - (b) frequency of structural inspections and audits and the aspects to be inspected / audited;
 - (c) checklist of the items to be maintained and the frequency of maintenance;
 - (d) hours of work / inspections of the sign (to ensure minimal disruption of any surrounding residential amenity and traffic operation);
 - (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; and
 - (h) measures to treat any surface corrosion present on the signage structure.

Regular maintenance of the approved sign must be undertaken in accordance with the Maintenance Plan. The sign must be inspected regularly to identify damage from storms, graffiti, or the like.

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

LIGHTING

- B2. All signage floodlights must be fitted with baffles, in accordance with *AS/NZS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting*. The baffles must be installed within one month of the date of this consent, unless an alternative timeframe is agreed to by the Planning Secretary.
- B3. 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

- B4. 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 text and information which hold drivers' attention beyond "glance appreciation";
 - (e) displays resembling traffic control devices, by use of colour, shape or words, which could be construed as giving instruction to traffic, for example, red, amber or green circles, octagons, crosses, triangles, and words such as, "stop" or "halt";
 - (f) a method of illumination that distracts or dazzles; and
 - (g) dominant use of colours red or green.

Signage content must be in accordance with the road safety guidelines for sign content, set out in the *Transport Corridor Outdoor Advertising and Signage Guidelines* (Department of Planning and Environment, 2017).

WIRING

- B5. Wiring must be contained behind the sign, or otherwise concealed, so that wiring is not visible from any public place.

LOCATION OF CERTAIN NAMES AND LOGOS

- B6. The name or logo of the entity who owns or leases the sign may appear only in the logo space attached to the bottom of the advertising structure, as shown in the Site Card listed in **Condition A55**, and must be no greater than 0.25 m² in size.

REMOVAL OF GRAFFITI

- B7. The owner/manager of the site or sign must remove all graffiti from the advertising structure within 48 hours of being notified that the sign has been vandalised.

ADVERTISING REVENUE/PUBLIC BENEFIT

- B8. 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.
- B9. The advertising structure must be made available for one four-week period each 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 7 days of the request being made.

ROAD OCCUPANCY LICENSE

- B10. A Road Occupancy Licence (ROL) must be obtained for work that may impact traffic flows on Cowpasture Road.

END OF PART B

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

DISABILITY DISCRIMINATION ACT

- AN5. 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

- AN6. 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.
- AN7. 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.