

## SYDNEY WEST JOINT REGIONAL PLANNING PANEL

<b>JRPP No</b>	2013SYW072
<b>DA Number</b>	60.1 / 2013
<b>Local Government Area</b>	Fairfield City Council
<b>Proposed Development</b>	<p>Crown Development application for the construction of three (3) single sided advertising billboard signs and one (1) double sided advertising billboard signs within the Western Sydney Parklands adjacent to the M7 Motorway.</p> <p>Capital Investment Value \$1,530,000</p>
<b>Street Address</b>	<p>No. 144 Wallgrove Rd, Cecil Park (Lot 14, DP70578)</p> <p>No. 73 Redmayne Rd, Horsley Park (Lot 6, DP1021711)</p> <p>No. 54-64 Chandos Rd, Horsley Park (Lot 7, DP1021711)</p> <p>No. 372 Wallgrove Rd, Horsley Park (Lot 19, DP1022008)</p>
<b>Applicant/Owner</b>	<p>Applicant: Western Sydney Parklands Trust</p> <p>Owner: Western Sydney Parklands Trust</p>
<b>Number of Submissions</b>	One (1)
<b>Recommendation</b>	That this Supplementary Report dealing with the additional information received from the applicant dated 14 March 2014 in response to the JRPP Minutes of 24 October 2013 be received and considered by the JRPP in the determination of Development Application No. 60.1/2013.
<b>Report by</b>	Nelson Mu, Senior Development Planner

**Proposal:** Crown Development application for the construction of three (3) single sided advertising billboard signs and one (1) double sided advertising billboard signs within the Western Sydney Parklands adjacent to the M7 Motorway.

**Location:** No. 144 Wallgrove Rd, Cecil Park (Lot 14, DP70578)  
No. 73 Redmayne Rd, Horsley Park (Lot 6, DP1021711)  
No. 54-64 Chandos Rd, Horsley Park (Lot 7, DP1021711)  
No. 372 Wallgrove Rd, Horsley Park (Lot 19, DP1022008)

**Owner:** Western Sydney Parklands Trust

**Applicant:** Western Sydney Parklands Trust

**Capital Investment Value:** \$1,530,000

**File No:** DA 60.1/2013

**Author:** Nelson Mu, Senior Development Planner  
Fairfield City Council

---

## **RECOMMENDATION**

That this Supplementary Report dealing with the additional information received from the applicant dated 14 March 2014 in response to the JRPP Minutes of 24 October 2013 be received and considered by the JRPP in the determination of Development Application No. 60.1/2013.

---

## **SUPPORTING DOCUMENTS**

<b>AT-A</b>	Minutes of JRPP Meeting on 24/10/13	3 Pages
<b>AT-B</b>	Applicant's Response to JRPP Minutes	37 Pages
<b>AT-C</b>	Legal Advice requested by the JRPP	4 Pages

## **SUPPLEMENTARY REPORT**

The Sydney West Joint Regional Planning Panel at its meeting on 24 October 2013 considered the subject Development Application for the construction of 4 advertising billboards adjacent to the M7 Motorway.

The JRPP deferred its decision on the application and requested that additional information be submitted by the applicant and directed Council to obtain legal advice in respect to the requirements of Clause 16 of SEPP (Western Sydney Parklands) in order for the application to be further considered by the JRPP.

The requested information is set out in the 'Minutes of the Sydney West Joint Regional Planning Panel Meeting held at Fairfield City Council on Thursday, 24 October 2013' (refer to Attachment A), which can be summarised as follows:

1. Social and economic benefits for Western Sydney Parklands in respect to the contribution the signs will make to the management, development and enhancement of the Parklands;
2. Landscape analysis with respect to tree trimming as landscaping grows up in front of the signs;
3. Proposed mitigation measures to screen the structure from the Usatti residence;
4. Council to inform the Usatti residents when additional information is submitted; and
5. Council to obtain legal advice whether the application satisfies the requirements of Clause 16 of the SEPP and whether the provisions of Condition 23(e) can be revised and amended.

The applicant has now provided a response in reply to the issues outlined in the JRPP minutes, as well as additional information in support of the application, as detailed in Attachment B.

This report deals with the above matters as follows:

1. **Social and economic benefits for Western Sydney Parklands in respect to the contribution the signs will make to the management, development and enhancement of the Parklands**

The applicant advised that the Draft Supplement to the Western Sydney Parklands Plan of Management 2020, which was tabled to the Panel at the meeting, has now been adopted as an amendment to the Western Sydney Parklands Plan of Management 2020 on 2 March 2014 by the Minister for the Environment under Section 27 of the Western Sydney Parklands Act 2006.

It is noted that the Plan of Management Plan 2020 amendment now identifies 10 locations within the Parklands for commercial billboards as contained in Section 3.7, which reads:

*The Trust has identified ten locations throughout the Parklands for commercial billboards sites. The billboards are located on the edge of the Parklands adjacent to major arterial roads. The locations of these billboards are of low environmental and scenic landscape value and in areas which do not detract from the recreational values and facilities of the Parklands.*

The Western Sydney Parklands Trust advised that the proposed signs are the last of the 10 proposed billboards for the Western Sydney Parklands. The other six billboards, located within the Blacktown and Liverpool Local Government Areas, have been approved.

The Plan of Management Amendment details that the Trust is required to generate \$10million per annum towards the management and development of the Parklands by 2020. The Plan of Management also details the proposed management, development and improvement programs for the Western Sydney Parklands (refer to Attachment B for details). The applicant advised that the Trust has been established as a self-funded agency for recurrent expenditure (operational costs) and receives \$4million per annum of capital grants.

The Trust has confirmed that the proposed 4 signs are expected to generate an income revenue (present dollar value) over a 15 year timeframe of \$1.978million (\$451k to \$627k per sign/site).

## **2. Landscape analysis with respect to tree trimming as landscaping grows up in front of the signs**

The Panel requested that details be provided as to who would be responsible for the maintenance of trees/vegetation in the vicinity of the signs should the trees/vegetation within the M7 road carriageway mature. The Panel also asked whether the income generated from the signs would be used for tree trimming should the landscaping in front of the signs grow.

The concerns with respect to the maintenance of vegetation within the M7 road carriageway were raised by the RMS and M7 Westlink as part of their submissions to the application.

The applicant responded by advising that the maintenance of landscaping in the front of the signs was discussed with the signage contractor during the tender evaluation process and in accordance with the terms of agreement with the contractor, the applicant contends that there will be no impact on advertising revenue to the Trust as landscaping in front of the signs matures.

The applicant indicated that the proposed signs are located in areas where there is high level of visibility from the M7 road carriageway and the signs have been designed with regard to the approved planting and growth habit that form part of the approved landscape plan approved by

the Minister for the M7 Motorway. The applicant advised that its landscape architect, who is a member of the Australian Institute of Landscape Architects and Manager of Urban Design and Planning at Architectus, has reviewed the approved landscape plan for the M7 Motorway and is confident that the proposed signs are unlikely to be obscured by tree/vegetation within the M7 Motorway.

However, no details have been provided in respect to the type of trees/vegetation approved within the M7 road carriageway and the proximity of the trees/vegetation to the signs.

In this regard, in the event that the landscaping within the M7 road carriageway matures and obscures the signs, the Western Sydney Parklands Trust shall liaise with the Roads and Maritime Services for further advice.

**3. Proposed screen measures to screen the structure from the Usatti residence and Council to inform the Usatti residents when such information is submitted**

As requested by the Panel, the additional information prepared by Architectus dated 14 March 2014 was forwarded to the Usatti residence for its information, with attention drawn to the proposed visual impact and mitigation measures to screen the proposed sign located adjacent to their property.

The applicant has conducted a visual and light spill impact analysis of proposed sign 4 upon the Usatti residence. As part of the process, a lighting specialist was commissioned by the Trust to record existing lighting levels in the vicinity of the proposed signage location and to ascertain the impact of the proposed sign with associated lighting on the adjacent residence. A surveyor was also engaged to obtain survey coordinates and relevant RLs to use in the compilation of photomontages showing views from the residence towards the proposed sign and to determine the impact of the proposed sign upon the residence.

The applicant's lighting consultant, Webb Australia, carried out an assessment of compliance of proposed sign 4 to Australian Standard AS4282 'Control of the obtrusive effects of outdoor lighting' and examine the impacts on the Usatti residence. As a result, the submitted documentation contends that the report concludes that the proposed sign conforms to the requirements of the Obtrusive Lighting Standard AS 4282 as follows:

*'The impact to the neighbouring resident from the proposed billboard lighting installation would be extremely minimal as demonstrated by the lighting calculations'.*

Webb Australia has stressed that the above findings did not include the following additional mitigation measures which would further reduce the impact of proposed lighting of the sign on the Usatti residence:

- The existing trees between the proposed location of the billboard and the neighbouring resident were excluded in the assessment;
- The proposed additional trees and vegetation between the proposed billboard and the neighbouring resident would further screen the neighbouring resident's property from the proposed billboard lighting installation; and
- The billboard shall incorporate an opaque black coloured screening material along the full length of the top of the billboard between the floodlights and the neighbouring resident property would eliminate any obtrusive glare to the neighbouring resident.

The applicant has indicated that notwithstanding the minimal light spill impact on the residence as demonstrated by its lighting consultant, the Trust would have no objection to the 'opaque black coloured screening material recommended by its lighting consultant being added to the billboard as a condition of consent.

In terms of visual impact assessment, the applicant compiled three versions of photomontages, as shown in the Supplementary Visual Impact Assessment for Site 4 that formed part of the submission (Attachment G of the submission), consisting of:

- Existing view
- Proposed view with sign
- Proposed view with sign and line of proposed trees/other vegetation

An analysis of the submitted Supplementary Visual Impact Assessment for Site 4 revealed that the proposed screening measures are adequate in screening the proposed sign from the Usatti residence. In order to further alleviate the visual and light spill impact of the sign on the residence, the Trust also offered to implement the proposed landscape screening detailed in the submitted landscape plan.

Accordingly, a condition should be incorporated into any approval requiring the landscape plan prepared by Architectus dated 20 November 2013 for the Western Sydney Parklands Trust be planted and implemented prior to the installation of the sign.

4. **Council to obtain legal advice whether the application satisfies the requirements of Clause 16 of the SEPP and whether the provisions of Condition 23(e) can be revised**

In accordance with the Panel's directions, Council has obtained legal advice on whether there is legal impediment to the determination of the application, having regard to the provisions of Clause 16 of SEPP (Western Sydney Parklands) and whether Condition 23(e) of the Draft Conditions of Consent be revised.

Legal advice was obtained from Sparke Helmore Lawyers who advised as follows:

Clause 16, State Policy

*'10. Clause 16 of the State Policy provides as follows:*

*(1) This clause applies to signage that is visible from a public place.*

*(2) Development consent must not be granted to the erection of signage unless:*

*(a) The consent authority is satisfied that the signage is consistent with any signage policy prepared by the Trust, and*

*(b) In the case of a road sign, the Roads and Traffic Authority has been given written notice of the development application and any comments received by the consent authority from the Roads and Traffic Authority within 21 days have been considered by the consent authority.*

*(3) In this clause:*

**Road sign** means a sign that has a display area greater than 20 square metres or that is higher than 8 metres above the ground and is within 250 metres of a classified road and any part of the signage is visible from the classified road.'

11. *The application has been referred to the RMS, which has commented by letter of 22 March 2013. The Panel is required to consider those comments.*

12. *In my opinion, the only relevant signage policy prepared by the Trust is to be found in the Western Sydney Parklands Design Manual at section 5.0 'Signage'. But the provisions thereof address signs within the Parklands, not advertising billboards as proposed. They are not relevant and can be ignored by the Panel in assessing the subject development application.*

13. *The 2007 Policy is not a policy prepared by the Trust. Nevertheless, the Panel is entitled, in my opinion, to have regard to that document. But it is not bound to do so.*

In view of the above, the legal advice has advised that there does not appear to be any legal impediment to the determination of the development on its merit.

Proposed Condition 23(e)

In respect to condition 23 of the Draft Condition of Consent, the legal advice advises as follows:

14. *The 2007 Policy states at page 23 that RTA (now RMS) has power to require the removal, screening or modification of a sign considered to be a traffic hazard, regardless of whether or not the sign has the benefit of development consent or a consent under the Roads Act.*
15. *Table 5 of the 2007 Policy is entitled 'RTA Road Safety Advisory Guidelines for Sign Content'. Item 6 in that table states:*
- 'Advertisement should not contain messages that are distractive or otherwise inconsistent with road safety.'*
16. *A traffic hazard is defined in the Roads Act as follows:*
- 'Traffic hazard means a structure or thing that is likely:*
- (a) To obscure or limit the view of the driver of a motor vehicle on a public road, or*
  - (b) To be mistaken for a traffic control device, or*
  - (c) To cause inconvenience or danger in the use of a public road, or*
  - (d) To be otherwise hazardous to traffic.'*
17. *Of interest for that definition is that pursuant to section 52 of the Roads Act, a public road that is declared to be a tollway ceases to be a public road by virtue of that declaration. The M7 Motorway is a tollway.*
18. *In my opinion, a slightly amended version of that definition should be incorporated into condition 23.*

The legal advice has recommended that condition 23 be amended to read as follows:

*'There shall be no display of advertisements that would result in a traffic hazard to motorists on the M7 Motorway. In this regard, advertising may only contain or display messages that, to the*



*reasonable satisfaction of Roads and Maritime Services, are not distracting or otherwise inconsistent with road safety.*

*For the purposes of this condition 23(e), 'traffic hazard' means a structure or thing that is likely:*

- (i) To obscure or limit the view of the driver of a motor vehicle on the M7 Motorway or on a public road, or*
- (ii) To be mistaken for a traffic control device, or*
- (iii) To cause inconvenience or danger in the use of the M7 Motorway or a public road, or*
- (iv) To be otherwise hazardous to traffic.'*

Accordingly, Condition 23 of the Draft Conditions of Consent has been amended accordingly.

### **Draft Conditions of Consent**

As part of the applicant's submission, the Trust has reviewed the Draft Conditions of Consent and requested that some of the conditions be revised. As a result of an analysis of the applicant's request, the Draft Conditions of Consent has been amended, where relevant.

### **CONCLUSION**

The additional information received from the applicant in reply to the JRPP Minutes of 24 October 2013 has been reviewed. It is considered that the applicant has adequately responded to the Panel's concerns. The proposed measures to screen signage 4 from an adjoining residence in the form of additional landscaping between the sign and the neighbouring residence and the incorporation of an opaque black colour material on top of the billboard are considered satisfactory.

The applicant has contended that the approved landscaping for the M7 road carriageway would not obscure any of the proposed signs when the vegetation grows. However, in the event that the vegetation within the M7 corridor matures and obscures any of the signs, the Trust shall contact the Roads and Maritime Services for further advice.

The legal advice has confirmed that there is no legal impediment to the determination of the application, having regard to Clause 16 of the SEPP (Western Sydney Parklands).

Accordingly, it is recommended that this report be received and considered by the JRPP in the determination of the subject Development Application.