

30 June 2016

File No: 2016/350413
Our Ref: R/2015/22/A

Amy Watson, Team Leader, Metropolitan Projects
NSW Department of Planning and Environment
22-33 Bridge Street
Sydney NSW 2000

Attention: Simon Truong
Simon.Truong@planning.nsw.au

Dear Simon

RE: SSD 7047, Darling Harbour Live Interactive Signage Display System

I refer to State Significant Development Application SSD 7047 for signage in the Sydney International Conference, Exhibition and Entertainment Precinct at Darling Harbour.

It is noted that majority of the signage proposed does not comply with the signage provisions of the Sydney DCP 2012, however the City acknowledges that the Sydney International Conference, Exhibition and Entertainment Precinct is a unique precinct of State Significance and that some flexibility in applying the controls may be appropriate. In that regard, it is our view that the nature of the site, and the existing and proposed future uses, are such that large scale dynamic digital displays may be acceptable in certain locations, subject to appropriate conditions to control their use and mitigate their impacts.

Notwithstanding this, the application proposes a number of signs that are capable or are proposed to be used for large format third party billboard advertising. Third party billboard advertising is generally not permitted in the City of Sydney. The City strongly objects to this component of the proposal.

In addition, some signs are considered to result in visual clutter and have already been constructed without development consent. As there is no mechanism to retrospectively approve works already carried out, the Consent Authority is unable to approve those items.

It is also noted that the submitted view analysis is inadequate to determine the impacts of the proposal on the public domain and buildings within the CBD or from Darling Harbour waterways and other foreshores and Pyrmont Bridge. Accordingly, an assessment under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, Foreshores and Waterways Area Part 2 Planning principles is not possible.

Our concerns regarding these, and other matters, are outlined in further detail below.

Third Party Advertising

Section 3.16.17 of the Sydney DCP 2012 generally does not permit commercial advertising and billboards and only considers then in exceptional circumstances as part of a public art project or community event. However, a number of the signs included in this proposal are proposed to display 'partner info' from 'precinct partners'.

The City requests the applicant to explicitly define what is meant by the terms 'partner info' and 'precinct partner'. Our strong concern is that the signs will be used for third party advertising for a select group of advertisers (e.g. automobiles, fast food chains, beverages and the like), rather than conference, exhibition, and entertainment organisations holding events in the precinct or the wider area (e.g. event organisers, dance companies, theatre companies and the like).

The City does not endorse the use of these signs as billboards for third party advertisers and strongly objects to their use for such a purpose. In accordance with City policies, signage should be limited to display conference, exhibition, and entertainment information associated with the precinct, and community information and public art. It should not be used for third party advertising under any circumstances.

It should be noted that under SEPP 64 a public benefit is required to be provided in connection with advertisements for which, amongst other things, the Minister for Planning is the Consent Authority. It is noted that in "*APN Outdoor Pty Ltd v The Council of the City of Sydney [2013] NSWLEC 1002*", this requirement was satisfied with an agreement to allow Council to use the sign to display community or emergency messaging for one sixth of the display time at no cost. If the Consent Authority was to consider approval for third party advertising, which the City strongly opposes, a commensurate public benefit should be provided. In this regard, the applicant should be required to enter into an agreement with Council to permit the City use of the LED signs for community or emergency messaging at no cost.

Notwithstanding all of the above, the City is also of the view that the NSW Department of Planning and Environment has a conflict of interest as Consent Authority, given the NSW State Government will receive a revenue stream from contracts with third party advertisers. It is recommended that this application is assessed by a third party to ensure impartiality.

Dwell Time

The LED signs are proposed to have a dwell time of 10 seconds with a refresh rate of 0.1 seconds. This is contrary to the Court's findings in "*APN Outdoor Pty Ltd v The Council of the City of Sydney [2013] NSWLEC 1002*" which established appropriate dwell times for LED signs based on RMS advice. That advice, amongst other things, states that advertisements must be displayed statically for a minimum of 30 seconds where the posted speed limit is greater than 80kmph and 45 seconds where the speed limit is less than 80kmph.

The City is of the view that while a 10 second refresh rate may be acceptable for signs that face in to the core facilities of the precinct, it is not acceptable for signs facing outward of the precinct or towards sensitive receivers. This includes future dwellings located in Darling Square.

It is strongly recommended that the dwell time for all relevant signs is increased to comply with the refresh rates accepted by the Court.

Illumination of Signs

The precinct is in a mixed use zone and is surrounded by sensitive receivers. Most of the signs are proposed to operate 24 hours per day, seven days per week.

The City already receives complaints regarding the illumination of existing signs within the Darling Harbour precinct, and therefore 24 hour operations are not supported. Light from the proposed signs has the potential to disturb residents in existing residential developments in the surrounding locality, and future residents of the student accommodation and residential flat buildings located in Darling Square.

To mitigate this potential impact, it is recommended that the brightness of the signs should be limited between dusk and dawn so that the illuminance of existing and proposed neighbouring residential properties from the signs do not exceed 2 lux measured at the window of the windows of habitable rooms. Conditions should require signs and their content do not flash, chase, pulsate or flicker and any animation or moving images are to be slow and smooth.

Sign T09

T-09 is a 38.4m² digital LED screen that will be used solely for building identification. It is located on the southern face of the Theatre and is identified as a Building Identification Sign. The sign will be visible from the Pier Street overpass and possibly from buildings within the city centre and from streets within the City.

The view analysis is inadequate to determine its impact from the CBD, and it is recommended that further analysis be undertaken.

In addition, the City is of the view that it is illogical to utilise a LED sign of this size for the sole purpose of building identification, and it is realistic to assume this sign will be used for third party advertising. Furthermore, the submitted documentation provides no detail regarding the content of the sign as would ordinarily be expected for a sign of this nature.

In light of the above, the City is very concerned that the long term objective for this sign is for third party advertising. Billboard signs are generally not permitted in the City of Sydney LGA by Section 3.16.17 of the Sydney DCP 2012 and are not supported.

It is recommended that the applicant provide additional information regarding this sign, including the rationale for selecting an LED sign of this size and further information regarding the proposed content. If the purpose of the sign is genuinely for building identification, it is the City's view that a design similar to Building Identification Signs proposed elsewhere in the precinct would be more suitable.

Sign T17

T-17 is a 84m² digital LED screen that is located on the western face of the Theatre that will be used to advertise current and upcoming events at the Theatre, and for third party 'precinct partner' advertising.

The view analysis is inadequate to determine its impact from the CBD, and it is recommended that further analysis be undertaken in relation to light spill, glare and driver distraction to vehicles on roads.

The location of the sign and its size maximises its visibility from the Pier Street overpass. The City has concerns regarding vehicular safety, as there is the risk that the sign will materially divert a driver's attention leading to an increased risk of collisions at this busy city thoroughfare. In this respect, concurrence from the RMS is paramount.

Furthermore, the proposed location of the sign appears to be contrary to the Court's findings in "*oOh! Media Assets Pty Ltd v The Council of the City of Sydney and Anor* [2015] NSWLEC 1269" relating to impacts of commercial billboards on vehicular safety.

T01, T11A, T11B, and T12

The City objects to these signs being used for third party advertising, as is currently proposed, for the reasons outlined above.

All Public Realm Signs

The City has provided photographic evidence to the Department which shows that the proposed signs have been partially constructed. The Consent Authority is unable to grant retrospective approval for works that have already been carried out without consent, and the proposed signs can therefore no longer form part of this proposal.

Notwithstanding this, the City is of the view that the proposed signs:

- are excessive in number (19 in total);
- will result in visual clutter;
- will unnecessarily obstruct the public domain; and
- will include 8m² billboard advertisements for third party advertisers, which are prohibited (refer above).

The City is very concerned given the cumulative advertising area of these signs is 152m². This will undoubtedly result in visual clutter in the precinct and will compromise the amenity and attractiveness of the public space. The signs also face onto a mixed use residential area, yet are proposed to be illuminated 24 hours per day. In light of this, and all of the above, these signs are not supported as currently proposed and it is recommended that they are deleted from the plans.

Sign C08

The Visual Impact Assessment submitted with the application includes a LED billboard sign proposed at the southern elevation of the Convention Centre to face the Western Distributor overpass. However, there is no reference to the sign in the Development Overview of the SEE (Ref. to Table 3 on page 26). The applicant should clarify if approval for the subject sign is sought as part of the current application.

Wayfinding

Darling Harbour is the main walking route between Ultimo/Pymont and the CBD. Its importance as a thoroughfare will further increase when The Boulevard is completed

at Darling Square, linking Darling Harbour with Haymarket, the Goods Line, and the southern CBD.

It is noted that the application states that all 24 signs 'can' be used for wayfinding, however it makes no commitment to do so. Furthermore, if wayfinding is to be displayed it will only be displayed for 15% of the time. The City is of the view that this is unacceptable in this important precinct, which has exceptionally high foot traffic comprising a high number of intrastate, interstate and overseas visitors who may be unfamiliar with Sydney.

It is our recommendation that some signs be allocated for permanent wayfinding. Furthermore, the dwell time for wayfinding on multipurpose signs should increase to at least 50%.

The wayfinding signs should include clear information about the various hard-to-find walking links to Ultimo, Pyrmont, Haymarket and beyond, including key sites such as educational establishments and shopping precincts.

We also recommend that an additional sign, with permanent wayfinding, be located near the Harris Street lift which links with Fig Street. It is recommended that the sign be located under the Western Distributor.

Conclusion

Based on the supporting documentation provided, the application is not supported and the City is unable to provide recommended Conditions of Consent in relation to this proposal at this time.

Should you wish to speak with a Council officer about the above, please contact Christopher Ashworth, Senior Planner, on 9246 7757 or at cashworth@cityofsydney.nsw.gov.au

Yours sincerely,



GRAHAM JAHN AM

Director

City Planning | Development | Transport