

Item 3.**Development Application: 134 Oxford Street, Darlinghurst - D/2025/961****File Number: D/2025/961****Summary**

Date of Submission:	7 October 2025
Applicant:	The Trustee for Cirillo Planning Trust c/- Giovanni Cirillo
Architect/Designer:	Lewis Design Group Pty Ltd
Developer:	oOh! Media
Owner:	KDP Nominees Pty Ltd
Planning Consultant:	Planning Lab c/- Giovanni Cirillo
Heritage Consultant:	Urbis
Cost of Works:	\$1,256,458.50
Zoning:	The site is located in the E1 Local Centre zone. 'Signage' (which includes 'advertising structure') is permissible in the zone with consent.
Proposal Summary:	<p>The subject application seeks to modify development consent U92-00273 to allow the replacement of an existing externally illuminated static roof advertising sign (94.55sqm) above the Oxford Hotel with an internally illuminated digital LED roof advertising sign (93.7sqm) and for associated works relating to the access and support structures.</p> <p>The application is referred to the Local Planning Panel for determination as the development contravenes the height of building development standard imposed by the Sydney Local Environmental Plan 2012 (the LEP) by more than 10%.</p> <p>The applicant has also submitted a clause 4.6 variation request to vary the maximum advertising display area specified by clause 3.17 of the State Environmental</p>

Planning Policy (Industry and Employment) 2021 (the IESEPP) by more than 100%.

Although a Public Benefit Offer letter has not been submitted to allow a draft Planning Agreement to be prepared and exhibited, the DA indicates that the intention is to enter into a planning agreement to dedicate 20% of the display time to be shared between Council and community groups.

The application was notified for a period of 28 days from 13 October 2025 to 11 November 2025. No submissions were received.

In accordance with Section 3.16 of the IESEPP, the application was referred to Transport for NSW (TfNSW) for concurrence. TfNSW advised in correspondence dated 4 November 2025 and 10 February 2026 that it would not provide its concurrence because of road safety reasons. Given that concurrence has not been obtained, the consent authority must not grant development consent.

The application is further recommended for refusal as it, amongst other matters:

- constitutes prohibited development pursuant to Section 3.8 and Section 3.17 of the IESPP (given that valid existing use rights have not been established)
- is inconsistent with the objectives of Chapter 3 as set out in section 3.1(1)(a) of the IESEPP
- is unacceptable in relation to the design and road safety assessment criteria in Schedule 5 of the IESEPP and Sections 2 and 3 of the Transport Corridor Outdoor Advertising and Signage Guidelines
- does not provide a public benefit in connection with the display of the advertisement as required by Section 3.11(3) of the IESEPP
- does not exhibit design excellence, in accordance with clause 6.21C of the LEP
- does not adequately demonstrate that compliance with the 'height of buildings' development standard under the LEP is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standard

- will result in an unacceptable heritage outcome contrary to various provisions of the Sydney Development Control Plan 2012 (the DCP)
- provides insufficient information to establish if all relevant owner's consent has been provided

Summary Recommendation: This proposal is recommended for refusal.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 (EPA Act)
 - (ii) Environmental Planning and Assessment Regulation 2021 (EPA Regs)
 - (iii) State Environmental Planning Policy (Industry and Employment) 2021
 - (iv) State Environmental Planning Policy (Transport and Infrastructure) 2021
 - (v) State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - (vi) Sydney Local Environmental Plan 2012
 - (vii) Sydney Development Control Plan 2012

- Attachments:**
- A. Selected Plans
 - B. Clause 4.6 Variation Request - Maximum Height of Buildings
 - C. Clause 4.6 Variation Request - Advertising Display Area
 - D. Transport for NSW (TfNSW) response to request for concurrence

Recommendation

It is resolved that:

- (A) the variations to the LEP 'height of buildings' development standard and to the IESEPP 'maximum advertising display area' control as requested in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 not be supported; and
- (B) consent be refused to Development Application No. D/2025/961 for the reasons outlined below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

Prohibited development

1. The proposed development is prohibited, as:
 - (i) It proposes the display of an advertisement within the C17 Oxford Street Heritage Conservation Area as mapped under the Sydney Local Environmental Plan 2012;
 - (ii) It proposes an advertising sign with a display area greater than 45 square metres and:
 - (a) A DCP that has been prepared on the basis of an advertising design analysis is not in force for the Oxford Street West signage precinct; or
 - (b) The proposed advertisement is not located on transport corridor land and is inconsistent with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017; and
 - (iii) Valid existing use rights have not been established.

As such, the proposed development is contrary to:

- (iv) Section 3.8(1) of the State Environmental Planning Policy (Industry and Employment) 2021; and
- (v) Section 3.17 of the State Environmental Planning Policy (Industry and Employment) 2021.

Failure to establish existing use rights

2. The existing sign has not demonstrated existing use rights, as:
 - (i) Insufficient evidence has been provided to demonstrate lawful and continuous operation of the existing sign in accordance with statutory licensing requirements as specified at condition (5) of Development Consent No. U92-00273 and

- (ii) The constructed sign has an advertising display area that exceeds that approved by development consent No. U92-00273 given that a large portion of the sign sits outside of the area depicted on the approved unnumbered, undated plan on file No. U92-00273.

As such, the proposed development is contrary to:

- (iii) Part 4, Division 4.11 'Existing uses' of the Environmental Planning and Assessment Act 1979; and
- (iv) Part 7 of the Environmental Planning and Assessment Regulation 2021.

Concurrence not granted from TfNSW

- 3. The proposed digital sign is unacceptable in relation to road safety impacts as:
 - (i) Concurrence has not been received from Transport for NSW (TfNSW); and
 - (ii) The digital advertising sign will confuse, distract and compromise road user safety.

As such, the proposed development fails to comply with and is contrary to:

- (iii) Section 3.16 of the State Environmental Planning Policy (Industry and Employment) 2021;
- (iv) Section 3 of the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017; and
- (v) Section 3.16 of the Sydney Development Control Plan 2012, including objective (7), and the provisions at sections 3.16.3(8)-(10) and (13), 3.16.7.2(2)(g), Section 3.16.7.2(3)(f) and 3.16.7.2(5)(c)-(i) and (l)-(n).

Landowner's consent

- 4. Development works are proposed to the access gantries overhanging the front facade of the building. Insufficient information has been provided, however, to determine if all relevant written landowner's consent has been provided to the lodgement of the application in accordance with Section 23 of the Environmental Planning and Assessment Regulation 2021.

Failure to provide a public benefit

- 5. The proposed development fails to provide a public benefit, as:
 - (i) A formal letter of offer has not been submitted to allow a Planning Agreement to be negotiated and entered into with the City.

As such, the proposed development is contrary to:

- (ii) Section 3.11(3) of the State Environmental Planning Policy (Industry and Employment) 2021;
- (iii) Section 4 of the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017; and

- (iv) Section 3.16 of the Sydney Development Control Plan 2012, including objective (11), and the provisions at sections 3.16.7.1(1), 3.16.7.2(2)(j) and 3.16.7.2(9).

Inadequate Clause 4.6 variation requests

- 6. The applicant's written Clause 4.6 'Height of Buildings' request is inadequate because:
 - (i) It has not demonstrated that compliance with the 'heights of building' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standard; and
 - (ii) The existing and proposed building height has not been calculated in accordance with the building height definition under the Sydney LEP 2012, as the existing ground levels have not been nominated.
- 7. The applicant's written Clause 4.6 'Advertising display area' request is inadequate because:
 - (i) It has not adequately demonstrated that the maximum 45 square metre advertising display area requirement specified at Section 3.17 of State Environmental Planning Policy (Industry and Employment) 2021 (IESEPP) is unreasonable or unnecessary and that there are sufficient planning grounds to justify the control being varied; and
 - (ii) In the absence of valid existing use rights, Section 3.17 of the IESEPP is a prohibition and cannot be varied via a Clause 4.6 variation request.

As such, the proposed development is contrary to and fails to satisfy:

- (iii) Clause 4.6(3) of the Sydney Local Environmental Plan 2012;
- (iv) Section 3.17 of the State Environmental Planning Policy (Industry and Employment) 2021; and
- (v) Section 3.16.12(2) of the Sydney Development Control Plan 2012.

Failure to exhibit design excellence

- 8. The proposed development fails to demonstrate design excellence, as it:
 - (i) Fails to provide a high standard of architectural design, materials or detailing appropriate to the building type and location;
 - (ii) Has a form and external appearance that will detract from the quality and amenity of the public domain;
 - (iii) Detrimentally impacts on the view corridor of Oxford Street, including view lines to and within Taylor Square;
 - (iv) Fails to respond sensitively to heritage and streetscape constraints;
 - (v) Fails to satisfactorily address environmental impacts, including visual impacts, reflectivity, and luminance;

- (vi) Will impact on pedestrian, cycle and vehicular movements and safety; and
- (vii) Will impact on the character of the Oxford Street Cultural and Creative Precinct.

As such, the proposed development is contrary to and fails to satisfy:

- (viii) Section 3.1(1)(a)(iii) of the State Environmental Planning Policy (Industry and Employment) 2021;
- (ix) Clause 1.2(2) of the Sydney Local Environmental Plan 2012, including the aims at parts (h), (j), and (k);
- (x) Clause 6.21(1) of the Sydney Local Environmental Plan 2012, including the objective of the clause;
- (xi) Clause 6.21C(2) of the Sydney Local Environmental Plan 2012; including the matters for consideration at parts (2)(a), (2)(b), (2)(c), (2)(d)(iii), 2(d)(vii), (2)(d)(ix), (2)(d)(x) and (2)(d)(xi); and
- (xii) Section 3.16 of the Sydney Development Control Plan 2012, including the objective (4), and the provisions at sections 3.16.3(1) and (11), 3.16.7.2(3)(e).

Unacceptable heritage impacts

9. The proposal undermines the significance of the building, the conservation area and surrounding heritage items; as:
- (i) The digital sign does not respect the heritage significance of the heritage conservation area and is incompatible with the surrounding built form;
 - (ii) The digital sign fails to respond to, complement or support the architectural design of the subject contributory building and will diminish the contribution the building makes to the heritage significance of the area;
 - (iii) The digital advertising sign will detrimentally impact on views to the site;
 - (iv) The relationship and appearance between the building and the advertising structure will not be improved; and
 - (v) The signage is located above awning level and is not an integral part of the significance of the building.

As such, the proposed development is contrary to and fails to satisfy:

- (vi) Section 5.10 of the Sydney Local Environmental Plan 2012;
- (vii) Section 3.9 of the Sydney Development Control Plan 2012, including general objective (a), objectives (a)-(d) in Section 3.9.7 and the provisions at sections 3.9.7(1) and (2); and
- (viii) Section 3.16 of the Sydney Development Control Plan 2012, including the objective (5), and the provisions at sections 3.16.3(4), 3.16.7.2(2)(c), 3.16.7.2(6), 3.16.11(3)-(6), (9) and (12)-(14), and 3.16.12.11(2).

Incompatibility with locality and unacceptable visual impacts

10. The proposal is not suitable in the proposed location and will have detrimental visual impacts, as:
- (i) The digital advertising sign is not compatible with and does not contribute to the surroundings heritage items, the heritage conservation area, and the existing and desired character of the Oxford Street Darlinghurst locality and the Oxford Street Cultural and Creative Precinct;
 - (ii) The proposal does not improve the appearance of the existing advertising structure it proposes to replace;
 - (iii) The proposal does not improve the streetscape and will negatively impact on the quality of the public domain;
 - (iv) The digital sign would detract from the existing vistas into Taylors Square;
 - (v) The proposal does not have an advertising display area that improves the visual contribution of the advertising structure to the building and the area in which it is located and does not have a smaller advertising display area than the existing advertising structure it is replacing; and
 - (vi) The digital sign structure has not been designed to reduce the amount of vertical projection above the building's roofline.
 - (vii) The proposed development fails to protect the amenity of the area and will be illuminated on a 24-hour/7-day a week basis.

As such, the proposed development is contrary to and fails to satisfy:

- (viii) Section 3.1(1)(a)(i) and (ii) of the State Environmental Planning Policy (Industry and Employment) 2021;
- (ix) Section 3.19 of the State Environmental Planning Policy (Industry and Employment) 2021
- (x) The Oxford Street Darlinghurst Locality Statement at Section 2.4.10 of the Sydney Development Control Plan 2012;
- (xi) The Oxford Street Cultural and Creative Precinct Locality Statement at Section 5.11.1 of the Sydney Development Control Plan 2012; and
- (xii) Section 3.16 of the Sydney Development Control Plan 2012, including the objectives (3), (6) and (13), and the provisions at sections 3.16.4(3), 3.16.7.2(2)(a), (b), (d), (e), (f), (h) and (i), and 3.16.7.2(3)(a) and (c).

Inadequate and incomplete information

11. The application fails to provide sufficient information to undertake a fully detailed assessment, as it:
- (i) Provides incomplete architectural and demolition plans;

- (ii) Does not provide a survey plan showing the existing and proposed works in relation to the property boundaries;
- (iii) Provides no details of the proposed materials, colours and finishes;
- (iv) Provide no information regarding the environmental performance and energy use of the proposed illuminated sign, including any renewable energy source;
- (v) Fails to include a management plan identifying the operational, content management, maintenance and complaints handling arrangements for the advertising structure;
- (vi) Includes an incomplete Visual Impact Assessment; and
- (vii) Includes an incomplete Lighting Impact Assessment and does not consider the potential impacts on the amenity of surrounding existing and approved accommodation land uses.

As such, the proposed development is contrary to and fails to satisfy:

- (viii) Section 3.18 of the State Environmental Planning Policy (Industry and Employment) 2021
- (ix) Section 3.16 of the Sydney Development Control Plan 2012, including the objective (12), and the provisions at sections 3.16.3(12), 3.16.4(6), 3.16.7.1(3), 3.16.7.2(2)(k), (l), 3.16.7.2(4), 3.16.7.2(7), 3.16.7.2(8),

Not in the public interest

12. The application fails to demonstrate:

- (i) that the proposed development is in the public interest having regard to the matters above.

As such, the proposed development is contrary to and fails to satisfy:

- (ii) Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 6 March 2024 as being within the following category:
 - (a) Departure from Development Standards
2. The development application (DA) falls within the category of Departure from Development Standard as the development contravenes the 15m Height of Buildings development standard imposed by Clause 4.3 of the LEP by more than 10% (exceeds the standard by 27.5%) and exceeds the maximum 45 square metre advertising display area imposed by Section 3.17 of the Industry and Employment SEPP by more than 10% (exceeds the standard by 108.2%).
3. The DA documentation states that the proponent proposes a public benefit of 20% of time on the new digital screen to be shared between Council and community groups. Had a formal Public Benefit Offer letter been submitted and a draft Planning Agreement been prepared and exhibited, the development application would have also fallen within the category of Sensitive Development.

The Site and Surrounding Development

4. The site has a legal description of Lot 1 in Deposited Plan 107573 and is commonly known as 134 Oxford Street, Darlinghurst. It is irregular in shape with an area of approximately 195sqm. The subject site is located on the north-western corner of the public space known as Taylor Square and has a primary street frontage of approximately 14.5 metres to Oxford Street, a frontage of approximately 18 metres to Bourke Street and a frontage of approximately 5.3 metres to Foley Street.
5. Taylor Square is an important public place, and is historically, visually and physically connected to the Darlinghurst Courthouse and former Darlinghurst Police station across Oxford Street to the north. It is a complex public space extending from the courthouse buildings across Oxford Street, edged by heritage buildings on Flinders, Campbell, Bourke and Oxford Streets and the Rainbow Crossing. The angle at which Oxford Street bisects the grid creates a number of triangular or irregular shaped sites and public spaces at Oxford Square, Whitlam Square, Three Saints Square and Taylor Square.
6. The subject site contains a 3-storey building, commonly known as the Oxford Hotel, which was erected about 1911. A large single-sided advertising billboard structure is prominently located on the roof level of the existing hotel. The current advertising display area measures 15.5m wide x 6.1m high (94.55 square metres) and occupies the whole sign structure. The billboard structure is externally illuminated and has a south-eastern orientation facing towards Taylor Square.
7. Whilst not listed as a heritage item at the time of DA lodgement, a draft Planning Proposal to amend the Sydney LEP 2012 to include the subject building as a heritage item under Schedule 5 has been approved. At the time of finalising this report, Council staff were drafting the LEP revision for sign-off by Parliamentary Counsel.

8. Under the Sydney LEP 2012, the site is located within the C17 Oxford Street heritage conservation area (HCA). The subject building is mapped under the Sydney DCP 2012 as being a contributing building within the HCA. Several significant heritage items and other contributory buildings are in close vicinity of the site. The closest of these items include the neighbouring former substation within Taylor Square, the Darlinghurst Court House to the east and the Court House Hotel to the south on the opposite side of Oxford Street.
9. Under the DCP, the site is mapped as being located within the Oxford Street Darlinghurst Locality Area, the Oxford Street West Signage Precinct, a Late-Night Management Area, and the Oxford Street Cultural and Creative Precinct.
10. The surrounding area is characterised by a mixture of commercial, retail and entertainment premises, with residential development to the rear and north. Oxford Street and Taylor Square have historically been known as a late-night entertainment area, with several hotels and nightclubs operating with extended trading hours. To the west of the site, Oxford Street continues towards the CBD and is primarily occupied by 3-4 storey commercial buildings and larger contemporary residential tower forms. Two (2) other static advertising billboards of a similar scale are currently located in close proximity to the site at 191-195 Oxford Street and 217 Oxford Street, though a recent court decision requires that the sign at 191-195 Oxford Street be removed.
11. A site visit was carried out on 19 November 2025 and 4 February 2026. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site (outlined in red) and surrounds. Location of 2 other existing billboard signs marked with blue stars.



Figure 2: Site viewed from corner of Flinders and Oxford Streets looking north-west



Figure 3: Site viewed from corner of Flinders and Oxford Streets looking north-west



Figure 4: Site viewed from southern side of Oxford Street looking north

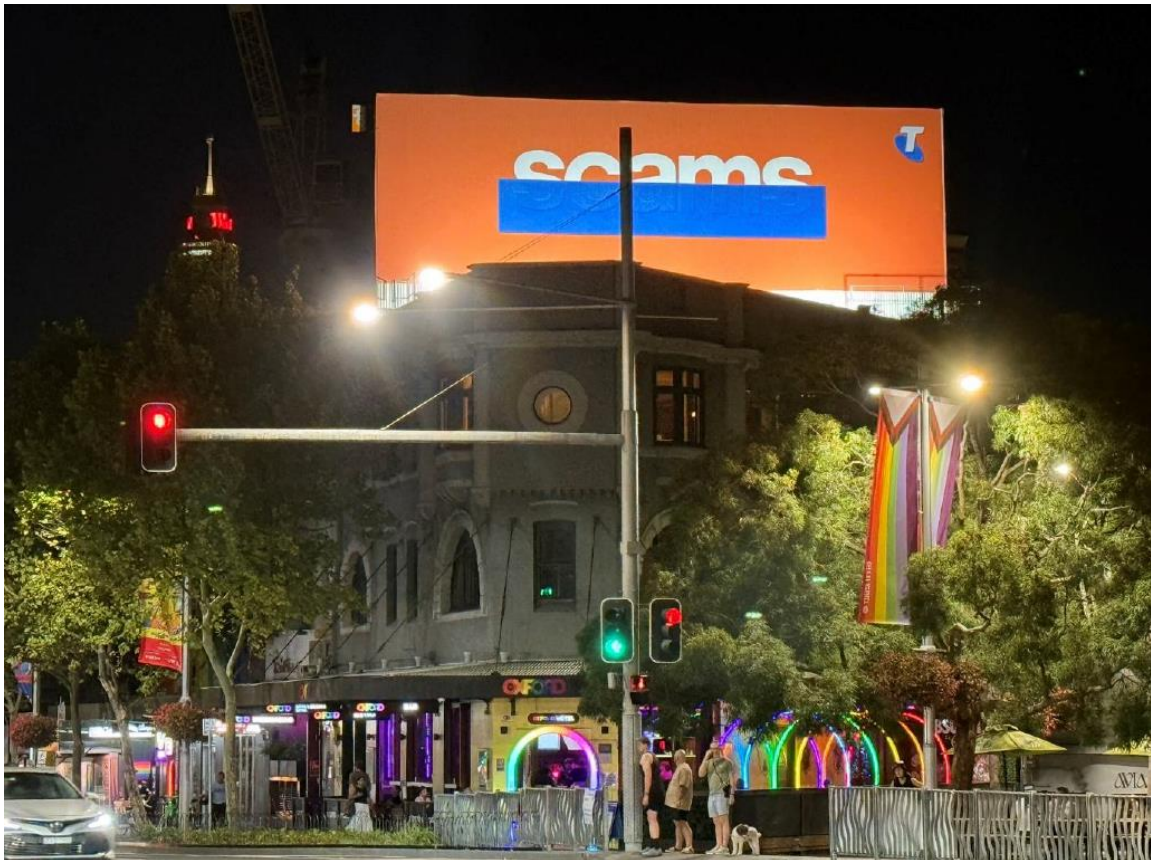


Figure 5: Site viewed from corner of Flinders and Oxford Streets looking north-west at night

History Relevant to the Development Application

Development Applications

12. The following applications are relevant to the current proposal:

- **D/2014/1002** – Development consent was refused on 9 September 2014 for a digital advertising billboard similar to that currently proposed. The DA included removal of the existing 94.55sqm billboard signage at the roof level of the Oxford Hotel and installation of new digital LED billboard signage. The overall dimensions of the proposed sign measured 13.784m long x 6.1m high, while the LED signage area measured 12.436m wide and 4.39m high (54.59sqm).

The applicant lodged a Class 1 appeal in response to Council's decision (oOh! Media Assets Pty Ltd v The Council of the City of Sydney and anor [2015] NSWLEC 1269). On 22 July 2015, the NSW Land and Environment Court (LEC) determined that the appeal be dismissed, primarily on the grounds of unacceptable heritage, view/visual and traffic safety impacts.

The applicant lodged a further appeal under s 56A against the dismissal of the Class 1 appeal against refusal of the development application (oOh! Media Assets Pty Limited v The Council of the City of Sydney [2016] NSWLEC 47). On 29 April 2016, the LEC determined that this further appeal be dismissed.

The subject application is similar to D/2014/1002, however, the sign display area proposed in this application is 93.7sqm (i.e. 15.36m x 6.1m).

- **U92-00273** – Development consent was granted by South Sydney Council on 29 May 1992 for the erection of a roof sign 15.5 metres long x 6.1 metres high externally illuminated by flood lights carrying the wording 'Malibu Like You Like Nothing Else' all in accordance with unnumbered, undated plan held in file U92-00273 (see Figure 9).

As part of this approval, no structural alterations were proposed or approved to the existing billboard sign structure. Essentially, the approval granted consent to change the signage display content of an existing sign. The current application, which is the subject of this report, seeks to modify U92-00273.

- **Unknown** - The assessment report for U92-00273 indicates that a development consent was granted by South Sydney Council on 11 October 1991 to reface an existing roof sign to display the words "American to America". The assessment report indicates that the consent expired on 31 March 1992 in line with the expiration of the sign licence. It is understood that the subsequent application (U92-00273) was lodged given that this consent had lapsed.
- **DA 641/89** - Development consent was granted by South Sydney Council on 19 October 1989 to reface the existing sign to display the word 'Capita'.
- **DA 44/80/747** - Development consent was granted by South Sydney Council on 23 October 1980 for the erection of a roof sign measuring 15.3m long and 6.1m high to display the word 'Sanyo'. The approved sign replaced an existing A-frame sky sign that had been on the site for many years prior.

Compliance Action

13. The site is currently not subject to any compliance action.

Proposed Development

14. The application seeks consent to replace an existing externally illuminated static rooftop advertising sign with an internally illuminated digital advertising sign.
15. The proposed works include:
 - removal of the existing static advertising sign (94.55sqm), including removal of the supporting tracks for the existing vinyl display and removal of the associated floodlighting
 - installation of an internally illuminated digital LED screen measuring 15.36m x 6.1m (93.7sqm)
 - retention and upgrade of the existing support structures and access gantries to meet current WHS standards
16. The proposed electronic advertising sign will display variable content. The proposed dwell time, meaning the period of time the content will remain static without any movement, is a minimum of 25 seconds. The proposed transition time, meaning the period of time taken for the content to change, is no more than 0.1 seconds.
17. To accommodate the above works, the application seeks to modify the conditions of development consent U92-00273 pursuant to Section 4.17(1)(b) of the Environmental Planning & Assessment Act (the Act) which provides the consent authority the capacity to impose a condition of consent if:
 - (b) it requires the modification or surrender of a consent granted under this Act or a right conferred by Division 4.11 in relation to the land to which the development application relates.
18. Accordingly, the DA proposes that the following condition be imposed as part of the subject application (D/2025/961):

"Prior to the issue of a Construction Certificate, an application must be lodged with Council to modify development consent U92-00273 to comply with the requirements of clause 67 of the Environmental Planning and Assessment Regulation 2021 and ensure that there is no inconsistency between the 2 consents (i.e. D/2025/961 and U92-00273)".
19. It is further proposed that the existing conditions imposed under U92-00273 be modified to reflect the proposed development and that an additional condition be imposed as follows:

"Despite any other provision of this Development Consent U92-00273, this consent does not authorise or require anything that is inconsistent with the work approved by Development Consent D/2025/961, and to the extent of any inconsistency the latter consent prevails".
20. Plans and elevations of the proposed development are provided below.

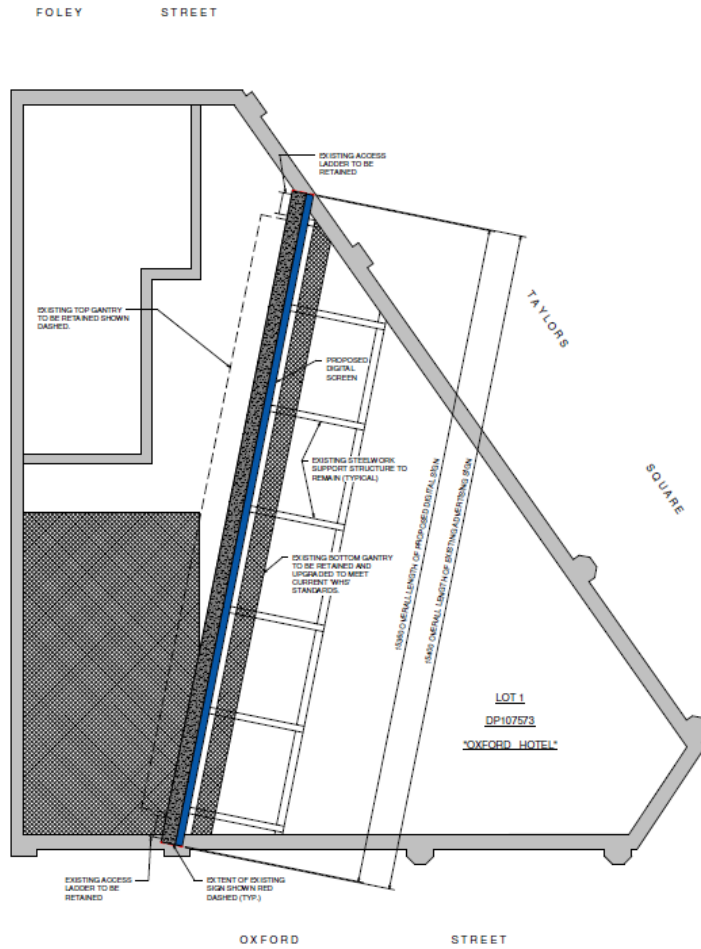


Figure 6: Proposed site plan



Figure 7: Existing elevation plans

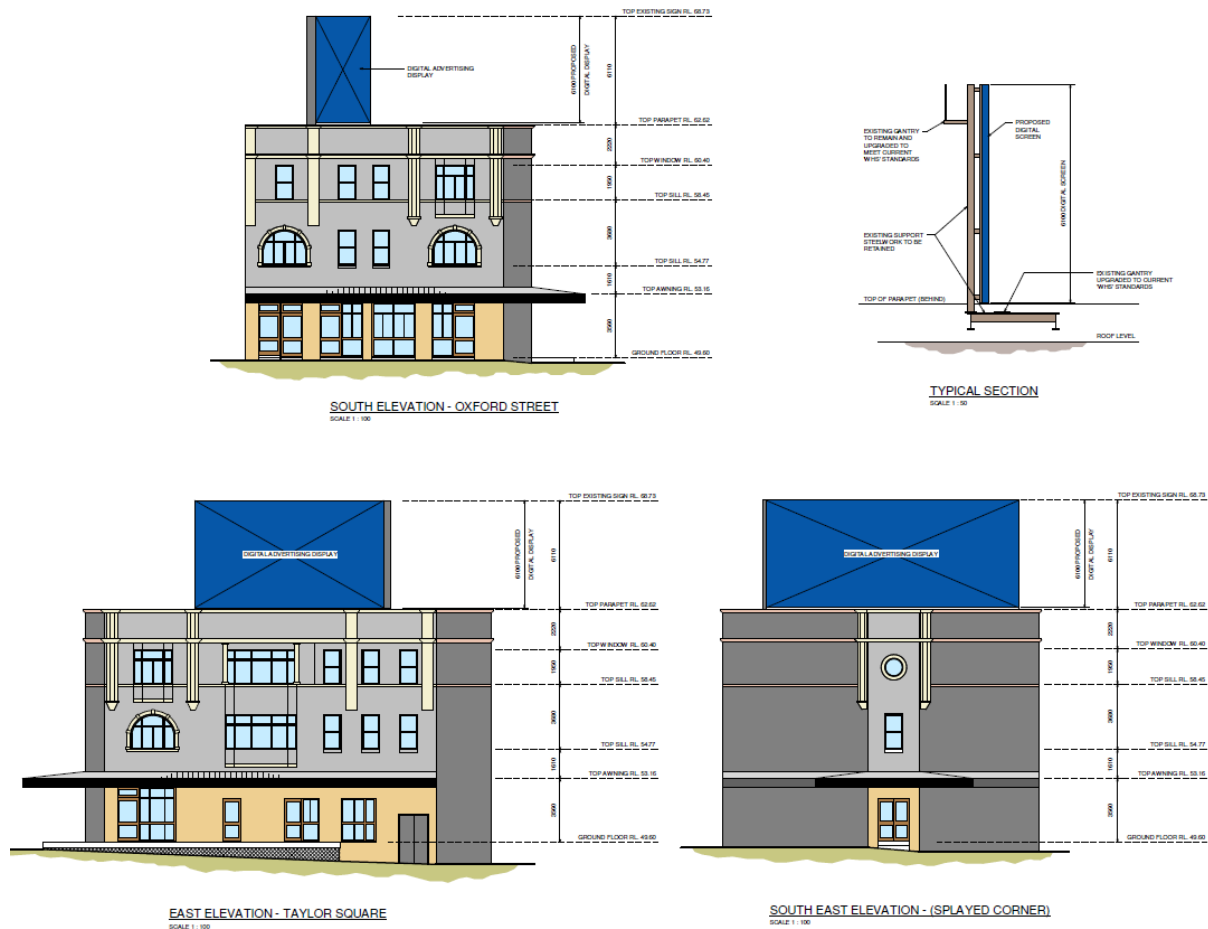


Figure 8: Proposed elevation plans

Assessment

- 21. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

- 22. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.

Matters for consideration

- 23. In accordance with Clause 3.11(2), the consent authority must not grant consent unless the proposed advertisement or the advertising structure:

- (a) is consistent with the objectives of Chapter 3 as set out in section 3.1(1)(a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 of the SEPP and in the Transport Corridor Outdoor Advertising and Signage Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of —
 - (i) design, and
 - (ii) road safety, and
 - (iii) the public benefits to be provided in connection with the display of the advertisement, and
- (c) satisfies any other relevant requirements of Chapter 3.

Consistency with the objectives

24. The proposal is inconsistent with the objectives of the SEPP as set out in Clause 3.1(1)(a), for reasons detailed in the 'Discussion' section of this report. The proposed digital signage is incompatible with the C17 Oxford Street Heritage Conservation Area, will dominate the historic building forms in Taylor Square, and does not provide a design or finishes that complement or enhance the heritage values of the building.

Schedule 5 Assessment Criteria

25. An assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	No	<p>It is acknowledged that the proposed sign is consistent in size with the existing sign on site.</p> <p>However, the application fails to demonstrate that the size and bulk of the sign, the location of the sign, and the variable content of the sign (which is proposed to change every 25 seconds, 24 hours a day), is compatible with the existing or desired future character of the Oxford Street Locality or the Oxford Street West signage precinct.</p> <p>See further details in See further details in the 'Discussion - Character of the area' section below.</p>
2. Special areas	No	<p>The building on which the sign is located is identified as contributory within the C17 Oxford Street Heritage Conservation Area under the LEP. The subject building has also been approved</p>

Provision	Compliance	Comment
		<p>for heritage listing, with the LEP amendment currently being drafted.</p> <p>The subject sign is currently one of two existing billboard signs fronting Taylor Square, with the other sign being located at 191-195 Oxford Street on the south-east corner of Taylor Square.</p> <p>As detailed in the 'Discussion - Character of the area' section of this report, the billboard at 191-195 Oxford Street is required to be removed following the dismissal of an appeal to the NSW Land & Environment Court. The subject billboard will therefore be the only remaining billboard sign with frontage to Taylor Square.</p> <p>Intensification of this sign will therefore be incompatible with, and would highly detract from the amenity and visual quality of, the C17 Oxford Street HCA.</p>
3. Views and vistas	No	<p>While it is recognised that the sign's location and size have previously been approved and that the proposed signage will not obscure or compromise any important views identified in the controls, the digital/changing images will be highly visible from within Taylor Square and the approaching streets and will draw attention to this already intrusive sign.</p> <p>As detailed in the 'Discussion - Inadequate and insufficient information' section of this report, the Visual Impact Assessment (VIA) accompanying the DA is incomplete and provides photomontage imagery that is not a true representation of the proposal. Details of the possible variable signage content have already not been established to enable a detailed assessment to be undertaken.</p>
4. Streetscape, setting or landscape	No	<p>The existing billboard sign is not of an appropriate scale, proportion or form. The current sign protrudes above the Oxford Hotel building and dominates the rooftop of this contributory building.</p>

Provision	Compliance	Comment
		<p>The digitalisation of the sign will further increase its visual dominance and will detrimentally impact on the setting of the subject building and surrounding heritage items. The proposal fails to provide a positive contribution to the C17 Oxford Street HCA, to the Taylor Square streetscape or to the setting of the area.</p>
5. Site and building	No	<p>The proposed sign is not compatible with the scale, proportion and other characteristics of the contributory building on which it is located. The sign dominates the rooftop of the building, and its digitalisation will further increase its visual dominance.</p> <p>As detailed in the 'Discussion - Inadequate and insufficient information' section of this report, insufficient details have been provided to assess the materiality and finishes of the proposal.</p> <p>Based on available information, however, the proposal is not considered compatible with the character of the building, the surrounding heritage items or the HCA.</p>
6. Associated devices and logos	No	<p>As detailed in the 'Discussion - Inadequate and insufficient information' section of this report, insufficient details have been provided in relation to the associated devices and logos.</p> <p>While the drawings note that the existing platforms and access gantries will be retained and upgraded to meet current WHS standards, these details have not been provided.</p> <p>The existing sign also has an unauthorised oOh! media logo on its southern edge. This portion of the sign does not appear on either the existing or the proposed architectural drawings, and no details have been provided within the plans to confirm whether it will be retained or removed.</p>

Provision	Compliance	Comment
7. Illumination	No	<p>While the SEE confirms that the existing external lighting will be removed and that the digital sign will only be illuminated via the internal LEDs, no details have been provided within the proposed plans.</p> <p>As detailed in the 'Discussion - Inadequate and insufficient information' section of this report, the accompanying Lighting Impact Assessment is incomplete and has not adequately assessed the potential impact to near residential uses.</p> <p>In the event the proposed sign was to be considered for approval, conditions of consent could be recommended to address the intensity of the illumination, subject to traffic safety matters being satisfactorily addressed.</p>
8. Safety	No	<p>As required by section 3.16 of the IESEPP, the application was referred to Transport for NSW (TfNSW) for concurrence.</p> <p>In response, TfNSW advised that the proposed sign has the potential to reduce pedestrian, cyclist and vehicle safety and that concurrence has not been granted.</p>

26. As demonstrated above, the proposed signage fails to satisfy the assessment criteria specified in Schedule 5.
27. Furthermore, the proposal fails to satisfy the design criteria set out in Section 2 of the Transport Corridor Outdoor Advertising and Signage Guidelines (the Guidelines) and the road safety criteria set out in Section 3 of the Guidelines.
28. In relation to Section 2 of the Guidelines, the accompanying SEE does not provide an assessment against the criteria at Section 2.5.8 'Digital signs' and details of possible variable content have not been provided to enable a detailed assessment against these controls. For reasons already provided in the table above, the proposal is unacceptable in terms of design.
29. In relation to Section 3 of the Guidelines, TfNSW has advised in their letters dated 4 November 2025 and 10 February 2026 that the proposal is inconsistent with the criteria at Section 3.2.3 and is unacceptable in terms of road safety.

Public benefit test

30. In accordance with Section 3.11(3) of the IESEPP, the consent authority must not grant consent unless arrangements have been entered into for the provision of public benefits in connection with the display of the advertisement. Section 4 of the Guidelines provides the public benefit test for advertisement proposal and states:

“The level of public benefit for a given SEPP 64 advertisement is to be negotiated and agreed upon between the consent authority and the applicant. The public benefit can be provided as a monetary contribution or as an ‘in-kind’ contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities including benefits such as:

- * improved traffic safety (road, rail, bicycle and pedestrian);
- * improved public transport services;
- * improved public amenity within, or adjacent to, the transport corridor;
- * support school safety infrastructure and programs; and
- * other appropriate community benefits such as free advertising time to promote a service, tourism in the locality, community information, or emergency messages.”

31. The accompanying SEE states that a public benefit of 20% of time on the new digital screen is proposed to be shared between Council and community groups, such as Qtopia. A formal letter of offer, however, has not been submitted and as such, a Planning Agreement has not been entered into with the City. See further details in the ‘Discussion - Public Benefit’ section of this report.

Other relevant requirements

32. Section 3.16 of the IESEPP requires that the consent authority not grant consent unless the proposal satisfies any other relevant requirements of Chapter 3. Other relevant provisions of the IESEPP are outlined as follows.

3.8 Prohibited advertisements

33. In accordance with Section 3.8 of the SEPP, the display of an advertisement is prohibited on land within a heritage area (excluding railway stations).
34. Given that the subject site is located in the C17 Oxford Street Heritage Conservation Area, the application seeks to rely on the existing use rights provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021, to establish permissibility. The existing use rights provisions are applied in circumstances where land uses have commenced lawfully, and a subsequent change in planning legislation restricts how that use may be conducted into the future.
35. A detailed assessment of the approval history and statutory licensing regime indicates that existing use rights have not been adequately established by the applicant. In the absence of valid existing use rights, the proposed development is prohibited and therefore must be refused. See further details in the ‘Discussion - Existing use rights and ‘Permissibility’ sections of this report.

3.15 Advertisements with display area greater than 20 square metres or higher than 8 metres above ground

36. The proposed digital sign has a display area greater than 20 square metres and is higher than 8 metres. The consent authority must therefore not grant consent unless it is satisfied that the proposal addresses the criteria in Schedule 5 and the application has been referred to TfNSW in accordance with Section 3.16. As outlined above, the application does not satisfy the assessment criteria specified in Schedule 5 and concurrence has not been granted by TfNSW. Development consent must therefore not be granted.

3.16 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

37. As Oxford Street and Flinders Street are classified road, Section 3.16 requires that the proposal obtain the concurrence of the TfNSW.
38. As detailed in the 'Discussion - Traffic Safety' section of this report, TfNSW advised in correspondence dated 4 November 2025 and 10 February 2026 that it would not provide its concurrence.

3.17 Advertising display area greater than 45 square metres

39. This section of the IESEPP specifies that the consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres (unless certain criteria is met). Given that the proposed signage area is 93.7sqm, the proposal is prohibited.
40. The application therefore seeks to rely on the existing use rights provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021, to establish permissibility.
41. As indicated above, Council officers have determined that the proposal has not validly established existing use rights and are of the opinion that the prohibited use must be refused. For further details, refer to the 'Discussion - Existing use rights and 'Permissibility' sections of this report.
42. Despite the above, the applicant has submitted a request under Clause 4.6 of the LEP to vary the 45 square metre display area. This is separately considered in the 'Discussion' section of this report.

3.18 Location of certain names and logos

43. This section of the IESEPP allows the name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.
44. If the advertising display area has no border or surrounds, any such name or logo is to be located within the advertisement, or within a strip below the advertisement that extends for the full width of the advertisement.
45. The area of any such name or logo must not be greater than 0.25 square metres, and the area of any such strip is to be included in calculating the size of the advertising display area.

46. While not shown on either the existing or the proposed architectural drawings, it is noted that the existing sign has an illuminated logo sign on its southern edge (see Figure 14). The logo sign was not present in Google Streetview images in April 2008 but appeared in the November 2009 images. This sign sits outside of the overall sign extent and is not an exempt part of the third-party advertising sign.
47. The applicant is of the opinion that the non-compliance with these provisions is justified because the logo sign has historically been in place. Council officers disagree with this opinion.

3.19 Roof or sky advertisements

48. Although the proposal seeks to replace an existing sign of a similar in size, the proposal is inconsistent with Section 3.19 because the digital sign will not improve the visual amenity of the locality and will not improve the finish and appearance of the building and the streetscape. The advertisement is also higher than the highest point of the building.
49. In the event the DA was recommended for approval, a condition would be imposed limiting the life of the consent. While the provisions refer to a maximum of 10 years, Section 3.19(3) outlines instances where a lesser period can be specified. Section 3.16.5.2(14) of the DCP specifies that development consents for top of building signs are to be limited to 5 years.
50. As discussed in the 'Discussion - Existing use rights' section below, the licencing requirement under Ordinance No. 55 of the Local Government Act would have restricted the life of the existing sign to a maximum of 5 years.

State Environmental Planning Policy (Transport and Infrastructure) 2021

51. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.119 – Development with frontage to classified road

52. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Oxford Street which is a classified road.
53. Clause 2.119(2)(b) requires that consent not be granted if the safety, efficiency and ongoing operation of the classified road will be adversely affected by new vehicle access, emissions or traffic generation.
54. As detailed in the 'Discussion - Traffic Safety' section below, TfNSW advised in correspondence dated 4 November 2025 and 10 February 2026 that it would not provide its concurrence due to traffic and pedestrian safety concerns.
55. While it has been assessed that the safety, efficiency and ongoing operation of the classified road will be adversely affected by the proposed development, this is not as a result of any vehicular access to the land, the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land.
56. The proposal therefore satisfies the provisions at Clause 2.119.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

57. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
58. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

59. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	No	<p>The site is located in the E1 Local Centre zone. The proposed development is defined as 'signage' (which includes 'advertising structure') and is permissible with consent in the zone.</p> <p>Notwithstanding, the proposed development is prohibited pursuant to Section 3.8 and Section 3.17 of the IESEPP.</p> <p>See details in the 'Discussion - Permissibility' section below.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 15m is permitted.</p> <p>A height of 19.13m is proposed.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p>

Provision	Compliance	Comment
		A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.6 Exceptions to development standards	No	<p>The proposed development seeks to vary the 'height of buildings' development standard prescribed under clause 4.3.</p> <p>A Clause 4.6 variation request has been submitted with the application, but is not supported.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	No	See details in the 'Discussion - Heritage' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	No	<p>The proposed development does not demonstrate design excellence.</p> <p>See details in the 'Discussion - Design Excellence' section below.</p>
6.60D	N/A	<p>A building is permitted a height not exceeding 24m subject to satisfying other sub-clauses of 6.60D, including the provision of a cultural or creative purpose.</p> <p>The applicant does seek to rely on this clause and has submitted a clause 4.6 variation request to vary the 15m height standard prescribed by clause 4.3 of the LEP.</p>

Provision	Compliance	Comment
		See details in the 'Discussion - Clause 4.6 Height of building' section below.

Development Control Plans

Sydney Development Control Plan 2012

60. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

61. The site is located within the Oxford Street Darlinghurst locality area (section 2.4.10) and the Oxford Street Cultural and Creative Precinct (section 5.11.1). The proposed development is not in keeping with the unique character and the design principles of the localities because it will have a detrimental impact on the character of the contributory building on which it is located and the character of the surrounding heritage items and contributory buildings within the heritage conservation area, as detailed in the 'Discussion - Heritage and Character of the area' sections of this report.

Section 3 – General Provisions

Provision	Compliance	Comment
3.9 Heritage	No	See details in the 'Discussion - Heritage' section below.
3.16 Signage and Advertising	No	<p>The proposed development is for an electronic top of building/sky third party advertising sign within the Oxford Street West signage precinct.</p> <p>In the event the DA was to be considered for approval, it would be recommended that the requirement for a signage strategy, as required by Section 3.16.1, be waived given that the proposal is for a replacement sign.</p> <p>The proposal, however, is recommended for refusal on the basis that the DA does not contribute positively to the public domain or heritage conservation area, it fails to protect or enhance the significant characteristics of the subject building, streetscapes and vistas, and will detrimentally impact on the safety of road users.</p>

Provision	Compliance	Comment
		See further details in the 'Discussion' section below. Non-compliance with specific provisions of Section 3.16 of the DCP is also detailed in the 'Recommendation'.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.11 - Oxford Street Cultural and Creative Precinct	No	Section 5.11 does not include any specific signage controls. The digitalisation of the sign, however, is inconsistent with the desired future character of the area because it does not satisfy heritage conservation requirements. See further details in the 'Discussion - Heritage' section below.

Discussion

Existing Use Rights

62. The subject development application seeks consent for the digitalisation of an existing static rooftop advertising billboard. The proposal relies fundamentally on the assertion that the existing sign benefits from existing use rights under Sections 4.65-4.70 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Environmental Planning and Assessment Regulation 2021 (EP&A Regs).
63. However, a detailed assessment of the approval history and statutory licensing regime indicates that existing use rights have not been adequately established by the applicant. In the absence of valid existing use rights, the proposed development is prohibited under current planning controls and must be refused.
64. The applicant seeks to rely on development consent U92-00273 to establish existing use rights. Condition (5) of the base consent (U92-00273) imposes the following condition:
- “That an application for a licence under Ordinance No. 55 of the Local Government Act, 1919, as amended, shall be made in respect of the proposed sign(s)”.

65. This is reiterated at point 4 of the notes section at the end of the consent which states that:
- "(T)his development consent does not remove the need to obtain any other statutory consent necessary under the Environmental Planning and Assessment Act, 1979, or any other Act. In particular, your attention is drawn to the necessity to lodge - ... (ii) an application under Ordinance No. 55 of the Local Government Act, 1919, for a licence for any sign ...".
66. Ordinance No. 55 regulated outdoor advertising/billboards, including the licensing of structures used for displaying advertisements. It required applicants to specify the licensing period (i.e. not more than 5 years) and governed, for example, sign placement, use, size and duration. In essence, it operated as a substitute for time-limited consent conditions. Ordinance No. 55, however, was repealed in 1995 following the enactment of the Local Government Act 1993.
67. As discussed in the History Section of this report, a development consent was granted by South Sydney Council on 11 October 1991 to reface an existing roof sign to display the words "American to America". The consent, however, expired on 31 March 1992 in line with the expiration of the required sign licence. Given that this previous consent had lapsed, it appears that U92-00273 was lodged in response.
68. While Ordinance No. 55 has since been repealed, the licensing regime was legally essential to the continuation of the sign. A search of Council's Archives has confirmed, however, that all relevant South Sydney Council files have since been destroyed and that the City of Sydney Council does not hold an electronic or physical record of the licence/s required by condition 5 of the base consent. Given no evidence exists of continuous licensing of the sign or any renewal of the licence/s, it is considered that there is insufficient evidence to establish compliance with condition (5) of U92-00273 or lawful continuation of the sign use.
69. In the absence of evidence of lawful, continuous licensing:
- (a) The use cannot be proven to be lawful.
 - (b) The continuity of the use cannot be established.
 - (c) The statutory requirements for existing use rights are not satisfied.
 - (d) The sign cannot be relied upon as a lawful existing use.
70. Accordingly, existing use rights have not been adequately established.
71. As discussed in the History Section of this report, the applicant lodged a Class 1 appeal in response to Council's refusal of D/2014/1002. While the appeal was dismissed primarily on the grounds of unacceptable heritage, view/visual and traffic safety impacts, it is acknowledged that the parties agreed at the time of the hearing, that the existing sign had existing use rights from DA 44/80/747 granted on 23 October 1980. This position is not shared by the Council officers responsible for the assessment of the current application, noting that any existing use rights, if they can be proved to exist, must be in relation to the most recent operative consent.

72. Further to the above, development consent No. U92-00273 describes the approved development as being the erection of a roof sign 15.5 metres long x 6.1 metres high externally illuminated by flood lights carrying the wording "Malibu Like You Like Nothing Else" **all in accordance with the unnumbered, undated plan held in the above file** (emphasis added).
73. The approved plan indicates that the approved sign has a predominant height of 4.5m, with higher 6.1m elements being limited to point encroachments only (see Figure 9). Based on the approved description of the proposal and associated approved plan, it appears that the existing sign has a significantly larger surface area given that there is a large portion of the sign that sits outside of the area originally granted consent.

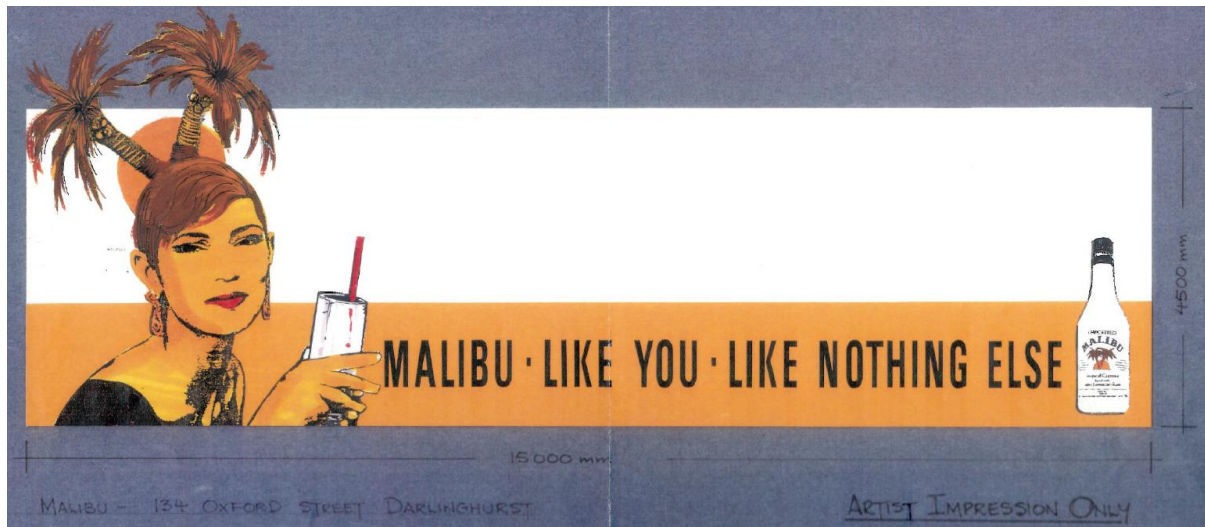


Figure 9: Plan approved under U92-00273 (being the subject base DA for this application)

Permissibility

74. Section 3.8 of State Environmental Planning Policy (Industry and Employment) 2021 (the IESEPP) specifies that the display of an advertisement is prohibited on land within a heritage conservation area. Furthermore, Section 3.17 of the IESEPP specifies that the consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres (unless certain criteria is met).
75. Given the site is located within the C17 Oxford Street Heritage Conservation Area under the LEP and that the proposed signage area is 93.7sqm and does not meet the criteria at Section 3.17, the proposal is prohibited under the IESEPP.
76. Given the current prohibitions outlined above, it is necessary for the application to rely on the existing use rights provisions of the EP&A Act 1979 and EP&A Regulation 2021, which are applied in circumstances where land uses have commenced lawfully, and a subsequent change in planning legislation has the potential to restrict how that use may be conducted into the future.

77. It is agreed that the prohibition under Sections 3.8 of the IESEPP does not apply to a development benefitting from existing use rights. The prohibition under Section 3.17 is considered further in the 'Discussion - Clause 4.6 Request to Vary a Development Standard - Section 3.17 of the Industry and Employment SEPP 2021' section of this report. However, for reasons discussed above in the ' Discussion - Existing Use Rights' section of this report, Council officers do not agree that it has been validly established that the existing sign benefits from existing use rights given that lawful continuity of the signage use, and/or licensing continuity has not been established. As such, the proposed development is prohibited under Section 3.8 and Section 3.17 of the IESEPP and cannot be granted consent.
78. Furthermore, the DA seeks consent for the removal of the existing static advertising sign and associated floodlighting, and installation of an internally illuminated digital screen. While the existing support steelwork and gantry will be utilised, essentially the proposal is for a new signage structure. In the event existing use rights can be established, Council officers are of the opinion that the existing use rights would apply only to the use and would not extend to the installation of a digital screen or any new framing/structural systems to support the screen. Such works would constitute intensification, rebuilding and expansion, which are not generally permitted.

Clause 4.6 Request to Vary a Development Standard - Height of Building

79. Clause 6.60D (3) enables a development to achieve a maximum building height of 24m as shown on the LEP's Alternative Height of Buildings Map, subject to satisfying other sub-clauses of 6.60D, including the provision of a cultural or creative purpose. The subject proposal, however, is not seeking to vary the mapped Alternative Height of Buildings control. Instead, the standard that is proposed to be varied is Clause 4.3 of the Sydney LEP 2012, which specifies that the site is subject to a maximum height of building standard of 15 metres.
80. Plans showing the 'established' existing ground level, the maximum permitted height in relation to the existing ground level, and the portions of the proposal which exceed the height standard, have not been submitted with the application or the written Clause 4.6 variation request.
81. Based on the applicant calculating the height from the existing ground floor level, the Clause 4.6 variation request states that the proposed (and existing) development has a maximum building height of 19.13 metres. This represents a 4.13 metre exceedance or a 27.5% variation to the height standard.
82. Council officers disagree with the specified maximum building height, noting that the definition of building height under the LEP requires that the height be measured from the ground level (existing) to the highest point of the building works. For the purpose of this assessment, however, the above figures been considered.
83. The application is accompanied by a written request in accordance with Clause 4.6(3)(a) and (b) of the LEP seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
84. A copy of the applicant's written request is provided at Attachment B.

Applicant's Written Request - Clause 4.6(3)(a) of the Sydney LEP 2012

85. The applicant's variation request refers to the 5 tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*) and relies on Test 1 under *Wehbe* to demonstrate that compliance with the height of building development standard is unreasonable or unnecessary in the circumstances of the case.
86. Test 1 under *Wehbe* establishes that compliance is unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard.
87. The applicant's Clause 4.6 written request indicates that the objectives have been achieved for the following reasons:
 - (a) Objective (a): To ensure the height of development is appropriate to the condition of the site and its context.

The applicant submits that this objective is met due to the following:

- (i) The subject site is located on the north-west corner on the intersection of Bourke and Oxford Street, Taylor Square, Darlinghurst. Situated on the site is the Oxford Hotel, a 3-storey building that serves as one of the 'anchor' buildings on the northern side of Oxford Street which were erected when the street was widened in 1911, and constructed between 1913-1914.
 - (ii) Advertising signage was first erected on the front facade of the Hotel in the 1930's, with a subsequent progression to the erection of a framed neon roof top sign structure in the 1970's, through to the erection of a static billboard advertising sign in the early 1980's, in which its size, form and use has been generally retained, subject to relatively minor modifications.
 - (iii) The proposed works include the replacement of the existing signage with digital LED signage of a similar scale, height and dimension. This proposal remains highly compatible with the existing and future character of the streetscape with the immediate visual context of the Hotel surrounded by a variety of static and digital signage, and advertisements of varying style, height, scale and location.
 - (iv) At a maximum height of 19.13m above the existing ground level, the proposed digital sign retains a suitable scale between the LEP Maximum Building Height of 15m and the LEP Alternative Building Height of 24m, within the Oxford Street Creative and Cultural Precinct.
- (b) Objective (b): To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.

The applicant submits that this objective is met due to the following:

- (i) The Oxford Hotel is situated in a prominent position of high heritage significance whereby it is bordered by heritage buildings (and associated heritage listings) on all frontages. Located on the border of two significant state heritage curtilages, alongside its location within a Heritage Conservation Area with vantage points and views to heritage items in the vicinity. The setting and relationship of the Oxford Hotel to the heritage items are of high significance.
 - (ii) As identified in point (a) above, the retention of the size and scale of the existing roof top advertising structure as part of the digital conversion DA, maintains a respectful and compatible relationship with the LEP permissible maximum building heights of this site and the surrounding Oxford Street Creative and Cultural Precinct.
- (c) Objective (c): To promote the sharing of views outside Central Sydney.

The applicant submits that this objective is met due to the following:

- (i) Several documented views are located within the immediate visual context of the site relating to a range of Local and State heritage items such as Taylor Square, Busby's Bore, Darlinghurst Courthouse and the Sydney Mardi Gras Parade Route. Whilst there are no documented views that relate specifically to the building at 134 Oxford Street, it does form part of the visual setting in views across the intersection between significant heritage buildings.
 - (ii) As verified by the Heritage Impact Statement:

"The proposal does not block views to surrounding Heritage Items, and does not negatively affect any identified view corridors. The proposed signage will not detract from the significance or views of these vicinity local and state items, but will increase engagement, activity and popularity of the Oxford Hotel and surrounds. The Heritage Items, and the cultural and historical significance of the intersection and setting will not be negatively impacted by the replacement of signage".
- (d) Objective (d): To ensure appropriate height transitions from Central Sydney to adjoining areas.

The applicant submits that this objective is met due to the following:

- (i) Oxford Street (and its surrounds) is a regionally significant retail, entertainment and local business district in immediate vicinity of the Sydney CBD, bound at its western end by the south-eastern corner of Hyde Park. The street accommodates a range of daytime and night-time activities, and is central to Sydney's (and, indeed, Australia's) LGBTIQ+ community.
- (ii) The current digital sign maintains a maximum height level compatible with the LEP maximum heights specified for the Oxford Street Creative and Cultural Precinct, which have been designed to respond to the more sensitive, lower scaled residential areas of surrounding parts of Darlinghurst.

- (e) Objective (e) relates to development adjoining/within Green Square. This objective has therefore not been considered by the applicant.

Applicant's Written Request - Clause 4.6(3)(b) of the Sydney LEP 2012

88. The applicant's variation request provides the following environmental planning grounds to justify the contravention of the height standard:

Compatibility of scale in broader urban context

- (a) The main building form of the Oxford Hotel has a height above ground level of approximately 13m, which falls within the current maximum LEP building height of 15m. The longstanding roof top advertising sign structure above adds a further 6m height to the building, resulting in a current and proposed overall height of 19.13m.
- (b) The focus of this assessment is the proposed 4.13m variation to the LEP maximum height limit.
- (c) Historical photos of the subject site, and adjoining site along Oxford Street, the former McIlraith's grocery store demonstrate the longstanding presence of large-scale advertising signs on this corner of the site's intersection with Taylor Square. The form, scale and use of the current billboard advertising structure above the Oxford Street have essentially been maintained since the early 1980's.
- (d) The proposed digital conversion of the existing sign structure therefore maintains a scale and commercial use character consistent with both the longstanding advertising history of the site, as well as the more recent planning controls introduced for the Oxford Street Creative and Cultural Precinct, which includes the LEP incentive to enable an Alternative Maximum Building Height of 24m on the subject site, provided that supporting provisions of Clause 6.60D of the LEP are satisfied.

Heritage

- (a) The Oxford Hotel is situated in a prominent position of high heritage significance whereby it is bordered by heritage buildings (and associated heritage listings) listings on all frontages. Located on the border of two (2) significant state heritage curtilages, alongside its location within a Heritage Conservation Area with vantage points and views to vicinity heritage items, the setting and relationship of the Oxford Hotel to the heritage items are of high significance.
- (b) The current DA is accompanied by a Heritage Impact Statement prepared by Urbis which provides a comprehensive analysis of the impacts of both the existing static and proposed digital roof sign.
- (c) The HIS concludes that the proposed digitisation will have a minimal and acceptable heritage impact on the Oxford Hotel. It also notes that the proposal is for the replacement of an existing static billboard sign and that it remains consistent with the setting of the item and is characteristic of existing development along Oxford Street, as well as the desired character of the Oxford Street Creative and Cultural Precinct

- (d) On that basis, the assessment of the proposed height variation of 4.13m is considered to satisfy the relevant heritage and conservation objectives and controls of the LEP, Sydney Development Control Plan 2012 and State Environmental Planning Policy (Industry and Employment) 2021.

View and view impacts

- (a) The Visual Impact Assessment report prepared by Urbis that accompanies this DA verifies the following:
 - (i) The proposal seeks to replace an existing sign and does not introduce new or additional physical elements into existing compositions.
 - (ii) The proposal will remain the only signage displayed on the rooftop of 134 Oxford Street where there is no proliferation of signs, and no risk of visual clutter or visual congestion.
 - (iii) Signs of a similar height and scale will not be visible within the same composition as the proposal. The proposal will not visually compete with similar, surrounding signage within the immediate visual context.
 - (iv) The proposal is a common type of advertising typically seen in similar contexts, it remains spatially separated from other signage and is differentiated in character so as to be individually perceived by viewers.
 - (v) The proposal satisfies all relevant planning policies and regulatory controls including the Industry & Employment SEPP 2021, Transport Corridor Outdoor Advertising & Signage Guidelines 2017 and the LEP.
 - (vi) The proposal does not block documented views, unique views to icons, heritage items or natural scenic and highly valued areas or features.
 - (vii) The proposal is highly compatible with the desired future character for the Oxford Street Cultural and Creative Precinct, under Section 5.11 of the DCP.
- (b) On that basis, the proposed LEP height variation of 4.13m, is considered to have minimal implications for the visual quality and view access of the Oxford Hotel and surrounding properties in this Precinct.

Overshadowing

- (a) Given the limited bulk of the proposed sign structure, its south-east facing orientation, and setback from the street frontage, it is anticipated that varied height amount of 4.13m will have relatively minimal impact on the solar access of residential properties located to the north behind Oxford Street, as well as the adjoining public domain of Taylor Square and commercial properties opposite.

Privacy

- (a) The advertising structure does not create any privacy impacts.

Building bulk

- (b) The retention of the existing structure, and the 4.13m height variation of the proposed digital sign, generates no additional building floor space or bulk above the Oxford Hotel building.

Consideration of Applicant's Written Request

89. Development consent must not be granted unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclauses 3(a) and 3(b) of clause 4.6 of the LEP being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

90. The applicant has referred to the five tests established by Preston CJ in *Wehbe v Pittwater* (*Wehbe*) to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.
91. The applicant's statement has correctly referred to Test 1 of *Wehbe*, but has failed to demonstrate that the development meets the objectives of Clause 4.3 of the LEP for the following reasons:
- (a) The applicant's written request relies heavily on the fact that the existing sign already exceeds the 15m height standard. It fails to appropriately respond to each objective and does not demonstrate that the height exceedance is acceptable for the site and its context.
 - (b) With regard for the context of the site, the proposal involves the installation of a visually dominating sign to the rooftop of a contributory building in a location that also significantly impacts the setting and character of heritage items adjoining the site and of Taylor Square.
 - (c) The written request does not have proper regard for the impacts of the elements that exceed the 15m height standard. The applicant's written request justifies the impacts based on no change to the existing height of the site and fails to justify whether the proposal provides a suitable height transition between it and adjoining heritage items. Stating that existing height will be retained is insufficient to demonstrate that compliance with the standard is unreasonable or unnecessary.
 - (d) Furthermore, Council officers disagree that the surrounding heritage items, and the cultural and historical significance of the Taylor intersection and setting will not be negatively impacted by the replacement signage. This matter is discussed further in the 'Discussion - Heritage and Character of the area' sections of this report.

Does the written request adequately address those issues at clause 4.6(3)(b)?

92. The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravention of the development standard.

93. For reasons detailed in the 'Discussion - Heritage and Character of the area' sections of this report, Council officers disagree with the claim that the proposed digitisation will have a minimal and acceptable heritage impact on the subject site, the neighbouring heritage items or the heritage conservation area.
94. It is further disagreed that the proposal is characteristic of existing development along Oxford Street, as well as the desired character of the Oxford Street Creative and Cultural Precinct. It is also disagreed that the sign will increase engagement and cultural activity in the precinct.
95. It does not satisfy the relevant heritage and conservation objectives and controls of the LEP, DCP and IESEPP, in particular noting that pursuant to Section 3.8 of the IESEPP the display of an advertisement is prohibited on land within a heritage conservation area.

Conclusion

96. For the reasons provided above the requested variation to the height of buildings development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Section 3.17 of the Industry and Employment SEPP 2021

97. Section 3.17 of State Environmental Planning Policy (Industry and Employment) 2021 (IESEPP), specifies that a consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless —
 - (a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or
 - (b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines
98. Section 3.17 is not a development standard. It is a prohibition as it precludes the granting of development consent (unless certain criteria are met) and therefore cannot be varied via a clause 4.6 variation request.
99. It is the applicant's opinion, however, that the subject roof sign on the site has existing use rights under the Act, and that a proposed variation to the control can therefore be considered on this basis.
100. As detailed in the 'Discussion - Existing Use Rights' section above, it is Council officer's opinion that existing use rights have not been established. Despite this, the written request has been considered below.
101. The proposed advertising sign has a display area of 93.7sqm. This represents a 48.7sqm exceedance or a 108.2% variation to the maximum 45sqm advertising display area.
102. The applicant's written request has been prepared to address Clause 4.6(3)(a) and (b) of the LEP and seeks to justify the contravention of the development control by demonstrating:

- (a) That compliance with the development standard (or in this case the development control) is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard (or in this case the control);

103. The applicant's Clause 4.6 Variation Request - Section 3.17 of State Environmental Planning Policy (Industry and Employment) 2021 is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) of the Sydney LEP 2012

104. The applicant's variation request refers to the 5 tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), but recognises that the 5 'tests' are not exhaustive, and it may be sufficient to establish only one to satisfy cl 4.6(3)(a).
105. The main focus of the applicant's request is the underlying intent and purpose of the roof sign size restriction sub-clauses, and demonstrating why strict compliance with the maximum 45sqm control is unreasonable and unnecessary in the circumstances of the digital sign proposal.
106. For the purpose of addressing Clause 4.6(3)(a), the applicant has provided the following:
- (a) The sign's existing use rights is an important matter to consider under Clause 4.6(3)(a) in terms of the reasonableness of strictly complying with SEPP maximum size of 45sqm, as compliance would effectively require an almost 50% reduction in the size of the current roof sign.
 - (b) To fully consider the reasonableness and fairness of this compliance, it is important recognise that large scale advertising signage above the Oxford Hotel and the adjoining site of the former McIlraths groceries building has been a prominent feature of the commercial enterprise character of this major intersection for over 70 years.
 - (c) The progressive images of this signage provided below highlight the scale of this signage:



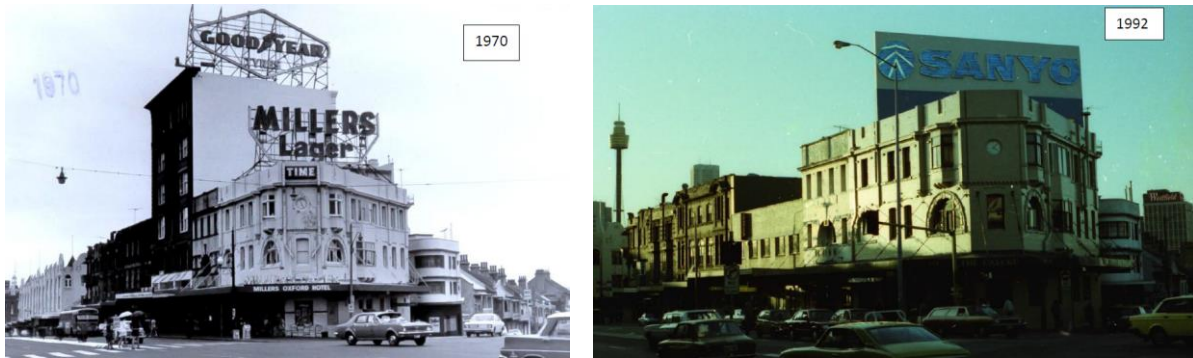


Figure 10: Historical photos of rooftop signage on subject site. The McIlraths signage seen in the 1930s and 1960s photos, and the Good Year tyres signage seen in the 1960s and 1970s photo, are located on the adjoining site.

- (d) Given the longstanding role that this large scale commercial signage has played in the history of this part of Oxford Street and Sydney, and the legitimate history of prior planning and Council approvals and licensing, it is considered unreasonable and unnecessary to require any proposal to modify the existing roof sign above the Oxford Hotel to reduce the current size by up to 50% in order to strictly comply with Section 3.17 of the SEPP.
- (e) In addressing Section 3.17(a) of the SEPP, it can be confirmed that the subject site is identified in the Oxford Street West Signage Precinct on the Signage Precincts Map under Section 3.16 of Sydney Development Control Plan 2012, and therefore the following provisions apply:
 - (i) Signage is to be visually interesting and respond to the role of the Oxford Street as a retail and night-time activity precinct, as outlined in the locality statement in section 2 of this DCP and any relevant heritage significance statement.
 - (ii) Signage is not to be located above awning level, or 4m where no awning exists. This may be varied where upper level signage is an integral part of the significance of a heritage building.
 - (iii) The replacement, modification or conversion of an existing approved advertising structure to an electronic variable content advertising structure may be permitted subject to consent and compliance with Section 3.16.7 (Advertising structures and third party advertisements).
- (f) The Statement of Environmental Effects prepared for the current DA provides a more detailed assessment of the digital sign proposal against these Precinct controls, as well as other signage related controls of the DCP and the Industry and Employment SEPP. The assessment identifies the following for the Oxford Street West Signage Precinct provisions:
 - (i) As identified in the assessment comments for the Section 2 Locality Statement and Section 3.16.7, the proposed digital replacement of the existing static advertising sign is highly consistent with Council's objectives of promoting Oxford Street as a retail and night-time activity precinct, whilst also maintaining a respectful and complementary relationship with the heritage significance of the Oxford Hotel building and the heritage and character of the adjoining Taylor Square and Oxford Street precinct.

- (g) This assessment is supported by the comprehensive Heritage Impact Statement and Visual Impact Assessment reports that accompany the DA.
- (h) In terms of Section 3.17(b) of the SEPP, whilst the proposed digital sign is not located within “transport corridor land”, the subject site adjoins Oxford Street, a State Classified Road, and is therefore subject to the key assessment of Chapter 3 of the Industry and Employment SEPP, and the NSW Department of Planning and Environment’s Transport Corridor Advertising and Signage Guidelines.
- (i) The Statement of Environmental Effects prepared for the current DA provides a detailed assessment of the environmental impacts, traffic safety and suitability of the location of the existing digital sign under the SEPP provisions. The assessment identifies the following consistency of the digital sign proposal with the aims of Section 3 of the SEPP:
 - (i) The proposed digital signage is replacing a previously approved static sign and is compatible with the desired amenity of the area. The proposed sign effectively communicates an advertisement in a suitable location, indicated by the location of the sign being previously approved in relation to the static sign being replaced. The proposed digital signage is of a high-quality design and finish, removing the need for external lighting and manual replacement of advertisements.
- (j) Further technical studies accompany the DA, a Traffic Safety Assessment and a Lighting Impact Assessment, which both verify that the proposed digital sign will meet all appropriate safety and environmental performance standards, and support for the proposal.
- (k) On the basis of the above assessment, it is considered that the subject proposal has satisfactorily addressed Wehbe test “1. objectives of the development standard are achieved notwithstanding non-compliance with the standard” and therefore demonstrates that strict compliance with Section 3.17 of the SEPP through a reduction in the current size of the sign is unnecessary and unreasonable.

Applicant’s Written Request - Clause 4.6(3)(b) of the Sydney LEP 2012

107. The applicant's variation request provides the following environmental planning grounds to justify the contravention of the size control:

Compatibility of Scale in Broader Urban Context

- (a) Historical photos of the subject site, and adjoining site along Oxford Street, the former McIlrath’s grocery store demonstrate the longstanding presence of large-scale advertising signs on this corner of the site’s intersection with Taylor Square. The form, scale and use of the current billboard illuminated advertising structure above the Oxford Hotel have essentially been maintained since the early 1980’s.

- (b) The proposed digital conversion of the existing sign structure therefore maintains a scale and commercial use character consistent with both the longstanding advertising history of the site, as well as the more recent planning controls introduced for the Oxford Street Creative and Cultural Precinct, which includes the LEP incentive to enable an Alternative Maximum Building Height of 24m and Alternative Maximum Floor Space Ratio of 4.5:1 (as compared to the current LEP maximums of 15m and 4:1) on the subject site, provided that supporting provisions of Clause 6.60D of the LEP are satisfied.

Heritage

- (a) As identified in Section 9 of this report, the Oxford Hotel is situated in a prominent position of high heritage significance whereby it is bordered by heritage buildings (and associated heritage listings) listings on all frontages. Located on the border of two significant state heritage curtilages, alongside its location within a Heritage Conservation Area with vantage points and views to vicinity heritage items, the setting and relationship of the Oxford Hotel to the heritage items are of high significance.
- (b) The current DA is accompanied by a Heritage Impact Statement prepared by Urbis which provides a comprehensive analysis of the impacts of both the existing static and proposed digital roof sign.
- (c) The HIS concludes that the proposed digitisation will have a minimal and acceptable heritage impact on the Oxford Hotel. It also notes that the proposal is for the replacement of an existing static billboard sign and that it remains consistent with the setting of the Hotel and is characteristic of existing development along Oxford Street, as well as the desired character of the Oxford Street Creative and Cultural Precinct.
- (d) It is noted that the supporting technical reports for a current Draft Planning Proposal to list the Oxford Hotel building as a local heritage item do not contain any assessment or recommendations relating to the existing roof advertising structure.
- (e) On that basis, the assessment of the proposed advertising display area variation of 49m² is considered to satisfy the relevant heritage and conservation objectives and controls of the LEP, Sydney Development Control Plan 2012 and State Environmental Planning Policy (Industry and Employment) 2021.

Visual and View Impacts

- (a) The Visual Impact Assessment report prepared by Urbis that accompanies this DA verifies the following:
 - (b) The proposal seeks to replace an existing sign and does not introduce new or additional physical elements into existing compositions.
 - (c) The proposal will remain the only signage displayed on the rooftop of 134 Oxford Street where there is no proliferation of signs, and no risk of visual clutter or visual congestion.
 - (d) Signs of a similar height and scale will not be visible within the same composition as the proposal. The proposal will not visually compete with similar, surrounding signage within the immediate visual context.

- (e) The proposal is a common type of advertising typically seen in similar contexts, it remains spatially separated from other signage and is differentiated in character so as to be individually perceived by viewers.
- (f) The proposal satisfies all relevant planning policies and regulatory controls including the Industry & Employment SEPP 2021, Transport Corridor Outdoor Advertising & Signage Guidelines 2017 and the LEP.
- (g) The proposal does not block documented views, unique views to icons, heritage items or natural scenic and highly valued areas or features.
- (h) The proposal is highly compatible with the desired future character for the Oxford Street Cultural and Creative Precinct, under Section 5.11 of the DCP.
- (i) On that basis, the proposed advertising display area variation of 49m² is considered to have minimal implications for the visual quality and view access of the Oxford Hotel and surrounding properties in this Precinct.

Overshadowing

- (a) Given the limited bulk of the proposed sign structure, its south-east facing orientation, and setback from the street frontage, it is anticipated that varied display area will have relatively minimal impact on the solar access of residential properties located to the north behind Oxford Street, as well as the adjoining public domain of Taylor Square and commercial properties opposite.

Privacy Impacts

- (a) The advertising structure does not create any privacy impacts.

Building Bulk

- (a) The retention of the existing structure, and the display area variation of the proposed digital sign, generates no additional building floor space or bulk above the Oxford Hotel building.
- (b) In summary, there are sufficient environmental planning grounds to justify the variation of the maximum 45sqm advertising sign display area development standard of Section 3.17 of the Industry and Employment SEPP.

Consideration of Applicant's Written Request

108. Development consent must not be granted unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclauses 3(a) and 3(b) of clause 4.6 of the LEP being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

109. As indicated above, it is Council officer's opinion that the sign does not benefit from existing use rights.

110. Given that Clause 4.6 of the LEP only applies to development standards and does not apply to other planning controls such as prohibitions (including Section 3.17 of the IESEPP), a variation to the maximum 45sqm advertising display area specified at Section 3.17 of the IESEPP cannot be varied under Clause 4.6 of the LEP.
111. As specified at Section 3.17 of the IESEPP, the 45sqm advertising display area can only be varied if:
- (a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or
 - (b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.
112. In relation to item (a) - It is agreed that the subject site is located within the Oxford Street West signage precinct under Section 3.16.12.11 of the DCP. Section 3.16.12 'Signage precincts' of the DCP, however, has not been prepared on the basis of an "advertising design analysis" and does not provide any design requirements/guidance for signage in the precinct. While Section 5.11 'Oxford Street Cultural and Creative Precinct' has been prepared on the basis of a design analysis, it has not been prepared on the basis of an advertising design analysis and does not include any controls for signs or advertising within the precinct. Criteria (a) has therefore not been met and the 45sqm control cannot be varied on this basis.
113. In relation to item (b) - The proposed digital sign is not located within "transport corridor land." Furthermore, TfNSW has advised in correspondence dated 4 November 2025 that the proposal is not consistent with the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and has therefore withheld its concurrence. Criteria (b) has therefore not been met and the 45sqm control cannot be varied on this basis.
114. Given that the proposal has not satisfactorily established existing use rights, does not comply with the maximum size requirement of 45sqm and does not satisfy the criteria at either item (a) or (b) above, development consent must not be granted.
115. In the event existing use rights could be established and it was agreed that a Clause 4.6 Variation Request could be made to vary the prohibition, Council officers do not accept the applicant's argument that compliance is unreasonable or unnecessary because it would require an almost 50% reduction in the size of the current roof sign.
116. An electronic variable content advertising with a display area of 93.7sqm would have a significant increased visual impact. A reduction to the size of the display area would therefore not be unjustified and is required by Section 3.16.7.2(3)(a) of the DCP. This control requires that the advertising display area improves the visual contribution of the advertising structure to the building and the area in which it is located and should have a smaller advertising display area than the existing approved advertising structure it is replacing.

Does the written request adequately address those issues at clause 4.6(3)(b)?

117. The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravention of the development standard.

118. For reasons detailed in the 'Discussion - Heritage and Character of the area' sections of this report, Council officers disagree with the claim that the proposed digitisation will have a minimal and acceptable heritage impact on the subject site, the neighbouring heritage items or the heritage conservation area.
119. It is further disagreed that the proposal is characteristic of existing development along Oxford Street, as well as the desired character of the Oxford Street Creative and Cultural Precinct. It is also disagreed that the sign will increase engagement and cultural activity in the precinct.
120. It does not satisfy the relevant heritage and conservation objectives and controls of the LEP, DCP and IESEPP, in particular noting that pursuant to Section 3.8 of the IESEPP the display of an advertisement is prohibited on land within a heritage conservation area.

Conclusion

121. For the reasons provided above the requested variation to the 445sqm advertising display area specified by Section 3.17 of the IESEPP is not supported. Furthermore, the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Design Excellence

122. Development consent must not be granted to the proposed development unless, in the opinion of the consent authority, the proposed development exhibits design excellence as outlined at clause 6.21C of the LEP.
123. In relation to the matters at clause 6.21C(2) of the LEP, the development fails to exhibit design excellence for the following reasons:
 - (a) 6.21C(2)(a) - The proposed digital sign does not provide a high standard of architectural design, materials or detailing appropriate to the building type and location. The sign is a utilitarian structure located at the rooftop of the building. It does not integrate with the building's architecture and does not contribute to the architectural quality of the building. It dominates the top of the subject building, which is proposed for heritage listing, and visually dominates the setting of the surrounding heritage items and conservation area.
 - (b) 6.21C(2)(b) and 6.21C(2)(d)(x) - The form and external appearance of the proposed digital sign will not improve the quality and amenity of the public domain. The digitalisation of the sign will increase its visual dominance and will not enhance the public amenity of Taylor Square. Any approval of the proposed development would set an undesirable precedent for future signage within the Oxford Street HCA and Oxford Street West signage precinct.
 - (c) 6.21C(2)(c) - The proposed development will detrimentally impact on view corridors. The sign's scale, visual prominence and nighttime illumination will dominate view lines to and within Taylor Square.
 - (d) 6.21C(2)(d)(iii) - The proposal fails to respond sensitively to heritage and streetscape constraints. The proposal will result in a more visually dominant structure and will further undermine the heritage values of the subject building and surrounding heritage conservation area.

- (e) 6.21C(2)(d)(vii) - The proposed development fails to address environmental impacts, including visual impacts, reflectivity, and luminance. The digitalisation of the site will increase visual pollution, night-time visual intrusion, and glare/reflectivity. The change from a static to a digital sign will result in an increased sensory load within the public space. This will detrimentally impact on the environmental quality and amenity of the area.
- (f) 6.21C(2)(d)(ix) - The proposed digital sign will result in an increased visual distraction which may impact on pedestrian, cycle and vehicular movements and safety.
- (g) 6.21C(2)(d)(xi) - The proposal will negatively impact on the quality of the public domain and the heritage significance of the area and is therefore inconsistent with the desired future character of the Oxford Street Darlinghurst locality area (section 2.4.10 of the DCP) and the Oxford Street Cultural and Creative Precinct (section 5.11.1 of the DCP).

124. Given that the proposal does not exhibit design excellence, development consent must not be granted, and the DA must be refused.

Traffic Safety

125. As specified by section 3.16 of the IESEPP, the consent authority must not grant development consent to the display of an advertisement greater than 20sqm and within 250 metres of, and visible from, a classified road without the concurrence of Transport for NSW (TfNSW).
126. In deciding whether or not concurrence should be granted, TfNSW must take into consideration the impact of the display of the advertisement on traffic safety, and the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (the Guidelines).
127. Accompanying the DA is a Digital Sign Traffic Safety Assessment prepared by Bitzios Consulting. The purpose of the assessment is to assess whether the proposal will create a road safety risk or hazard, confuse, distract or compromise road user safety. The Traffic Safety Assessment states that the primary difference between the existing static sign and the proposed digital sign is that the display on the digital sign will change every 25 seconds (or 4-5 times per Oxford Street/Flinders Street signal cycle).
128. As the site has a display area of 93.7sqm and is located within 250 metres and visible from both Flinders Street and Oxford Street, which are classified roads, the application was referred to TfNSW for concurrence. TfNSW has reviewed the submitted DA documentation against the Guidelines and the requirements of the IESEPP, including the matters at item 8 of Schedule 5.

129. In response, TfNSW advised in correspondence dated 4 November 2025 that it would not provide its concurrence for the following reasons:

(a) Section 3.2.3 of the Guidelines state:

“It is important that drivers are not distracted near decision making points or conflict points to allow concentration to be focused on the driving task where the driver’s attention requirements are greater. Decision making points include areas in which merging, diverging, turning and weaving traffic manoeuvres take place. Conflict points are locations such as intersections or pedestrian crossings where crash risk is greater. To minimise distraction near decision making points and conflict points, and ensure there is sufficient distance for a driver to recognise, react and, if required, stop safely before reaching one of these points, the following criteria apply to all advertising signage:

a. The sign should not be located:

i. less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves

ii. less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycleway facility or hazard within the road environment

iii. so that it is visible from the stem of a T-intersection.”

130. The proposed sign is located near an intersection, a traffic control signal, a marked foot crossing, a cycle crossing, is visible within a merge point on Flinders Street and is visible from the stem of a T-intersection. The proposed sign has the potential to increase distraction near these decision-making points.

(a) Section 3.2.3 of the Guidelines also states:

“b. The placement of a sign should not distract a driver at a critical time. In particular, signs should not obstruct a driver’s view:

i. of a road hazard

ii. to an intersection

iii. to a prescribed traffic control device (such as traffic signals, stop or give way signs or warning signs.”

131. The proposed sign sits directly behind or ‘backdrops’ the overhead traffic signal lanterns for northbound traffic on Flinders Street and has the potential to reduce the visibility and effectiveness of the traffic control signal and distract a driver at a decision-making point.

132. To address these concerns, the applicant submitted additional information and requested that TfNSW reconsider the application. In a response dated 10 February 2026, TfNSW advised it "...has reviewed the additional document prepared by Bitzios Consulting dated 18 December 2025 and reiterates its overall position as documented in the TfNSW letter dated 4 November 2025 and does not support the proposed modification for the reasons set out in that letter".

133. Given that TfNSW has refused to grant concurrence, the consent authority must refuse the application.
134. The digital sign is designed to attract attention through changing content, movement, contrast, visual prominence and increased illumination. Unlike the existing static sign, the digital sign will introduce dynamic visual stimuli, which has the potential to confuse, distract and/or compromise road user safety. Compared to a static sign, the digital sign will attract attention more frequently and for longer durations which has the potential to reduce the safety for motorists, pedestrians and cyclists.
135. For the above reasons and given the concurrence of TfNSW has not been obtained, the DA must be refused.

Heritage

136. Clause 5.10 of the LEP establishes heritage conservation objectives, including the requirement to conserve the heritage significance of heritage items and heritage conservation areas. Clause 5.10(4) requires that consent authorities must consider the effect of proposed development on the heritage significance of an item or conservation area prior to granting consent.
137. The site is located within the C17 Oxford Street Heritage Conservation Area (HCA) as identified within the LEP heritage map. The heritage significance is derived from highly intact Federation and Victorian commercial streetscapes, consistent roofscapes and parapet forms, significant historic civic, commercial and institutional buildings, strong visual coherence and homogeneity and landmark heritage items including the neighbouring former substation within Taylor Square, the Darlinghurst Court House to the east and the Court House Hotel to the south. As discussed under the Permissibility Section above, advertising signs are a prohibited use within the HCA.
138. The site is also located in the Oxford Street Cultural and Creative Precinct (Section 5.11 of the DCP). The precinct is one of Sydney's earliest main streets, characterised by largely intact Victorian, Federation and Inter-War style architecture. The precinct is also almost entirely located in heritage conservation areas and includes 4 state heritage items, 52 locally listed buildings and 132 contributory buildings.
139. The DCP identifies the site as containing a contributory building. Section 3.9.7 'Heritage conservation areas' of the DCP requires that significant built form be retained, that unsympathetic elements be removed, that the original character and form be respected, and that lost external elements be reinstated where possible.
140. Whilst not currently listed as a heritage item, the subject building is proposed for heritage listing. Following the preparation of the Oxford Street LGBTIQ+ social and cultural place strategy, Council commissioned TKD Architects in 2022 to explore sites within the precinct that hold strong links to LGBTIQ+ history and culture. The study recommended that 3 locations, including the Oxford Hotel at 134 Oxford Street, be heritage listed. Subsequently, Council prepared and publicly exhibited a draft Planning Proposal to amend Schedule 5 the LEP to list the 3 buildings as individual local heritage items. The Planning Proposal has been reported to Council and approved. At the time of finalising this report, Council staff were drafting the LEP revision for Parliamentary Counsel approval.

141. Reasons for listing the building as a heritage item include:
- (a) The Oxford Hotel has some historic associations with the local rock music scene during the second half of the 1970s and the gay community, having traded continuously since 1982. It is among Sydney's longest operating LGBTIQ+ venues.
 - (b) The Oxford Hotel is a substantial 3-storey building with a basement level occupying a prominent corner site. Its exterior demonstrates the influence of the Federation Free Style, most notably informal massing and fenestration, the use of brick and sandstone (providing contrasts of colour and texture), use of a number of differently sized and shaped windows (in this case Diocletian, oriels and simple double hung). Classical details have been used expressively and include cornices, brackets beneath second floor oriels and keystones in the arches of Diocletian windows.
 - (c) Although modified, the exterior of the building is a representative and distinctive example of the Federation Free Style and makes an important contribution to the Taylor Square townscape.
 - (d) The Oxford Hotel may have social significance because of its associations with Sydney's rock music scene during the second half of the 1970s and because of its associations with Sydney's gay male community for over forty years.
142. The draft Heritage Inventory Data Form, which accompanies the planning proposal, includes a photograph showing a neon sign ('Millers Lager') on top of the building in 1970. Based on an earlier photograph from 1960, it is noted that the original corner tower/cupola and related parapet elements were demolished to accommodate and provide better visibility of the roof sign constructed during the 1960s.
143. The form and content of the rooftop sign have changed from the fixed neon signs of early iterations to the current structure that supports printed vinyl changeable media with external lighting. As shown at Figure 2, the existing sign already has a negative impact on the built form and setting on the Oxford Hotel and the surrounding HCA.
144. The application is accompanied by a Heritage Impact Statement (HIS) prepared by Urbis. Council's Heritage & Urban Design Manager has reviewed the supporting DA documentation and has advised that the proposal is not supported on heritage grounds. Reasons for not supporting the application include:
- (a) The proposal is contrary to clause 5.10(4) of the LEP and fails to respect or conserve the heritage significance of the contributory building and the heritage conservation area.
 - (b) The existing advertising billboard sign is an intrusive and unsympathetic element, approved historically, prior to the implementation of current planning controls. The appearance and heritage character of the proposed heritage listed building and HCA, would be further diminished by the proposed digital sign.
 - (c) The proposal will unacceptably alter the visual setting of the Oxford Hotel (which is a proposed heritage item) and will not contribute positively to the building's appearance. The digitalisation of the sign would further dominate the building's historic form.

- (d) The proposal fails to provide a site-specific approach that responds to, complements and supports the heritage significance of the site and other nearby heritage listed items.
 - (e) The proposal does not respect character of area and is not sympathetic to the heritage context. The digitalisation of the sign would detract from the heritage streetscape of Oxford Street and would be deleterious to the Taylor Square setting and surrounds.
 - (f) The proposed alterations and additions to replace the existing static sign supporting printed vinyl skins with an LED digital screen will result in a sign that is fundamentally different to the existing sign.
 - (g) The existing sign's visibility relies on light either ambient or external artificial light bouncing off the face of the opaque vinyl skin. This means that during the daytime, the sign's visibility will depend on the ambient conditions, and the sign does not draw power or emit heat. The new sign's visibility relies on it emitting light, and with this, waste heat, 24-hours a day. This will make it more visible and therefore, more intrusive, than the existing sign at all times of day and night.
 - (h) The proposal is inconsistent with various heritage and signage related controls of the DCP (Section 3.9 'Heritage,' 3.16 'Signs and Advertisements' and 5.11 'Oxford Street Cultural and Creative Precinct') as detailed in as part of the 'Recommendation'.
145. The proposed development is recommended for refusal on the grounds that it involves the installation of an electronic variable content advertising sign that will further dominate the rooftop of the contributory building, will detrimentally alter the setting of Taylor Square and will set an undesirable precedent for future signage within the C17 Oxford Street HCA.

Character of the area

146. A consent authority must not grant development consent to an application to display signage unless it is satisfied that the proposed signage satisfies the assessment criteria specified within Schedule 5 'Assessment Criteria' of the IESEPP.
147. Item 1 at Schedule 5 requires that the proposal be compatible with the existing and desired future character of the area or locality in which it is proposed to be located.
148. The proposal is inconsistent with the existing and desired character of the area for the following reasons:
- (a) The proposal seeks to introduce a large-scale digital advertising sign into the HCA. The regular image changes will result in intensified visual activity and additional visual pollution, especially at night. These impacts will degrade the amenity of the area and are incompatible with the heritage significance of the area.
 - (b) Under the relevant locality statement (Section 2.4.10 'Oxford Street, Darlinghurst of the DCP), development is to:
 - (i) Respond to and complement heritage items and contributory buildings within heritage conservation areas.
 - (ii) Retain and enhance the existing heritage buildings along Oxford Street.

- (iii) Respect the prevailing scale, character and form of the street, as defined by the Victorian, Federation and Inter-war heritage buildings.

The digital sign, which is a prohibited use, does not complement or enhance the heritage values of the building. The changing content will also draw more attention to the sign and will dominate the building.

- (c) The size and bulk of the digital billboard sign and associated structure negatively impact on the contributory building. The digital sign will have greater visual assertiveness than the existing static sign and will further dominate the historic building forms in Taylor Square.
- (d) The Locality Statement for the immediately adjoining Taylor Square and Darlinghurst Civic Precinct (Section 2.4.11) requires that the historic civic and institutional character of the area be maintained.
- (e) The proposal will negatively impact on the quality of the public domain and the heritage significance of the area and is therefore inconsistent with the locality statement for the Oxford Street Darlinghurst locality area (section 2.4.10 of the DCP) and the Oxford Street Cultural and Creative Precinct (section 5.11.1 of the DCP).
- (f) The desired future character of the area, as described in the relevant locality statements, does not include the intensification of rooftop advertising infrastructure.
- (g) The approval of static billboard signs in the past does not automatically mean that this form of development is compatible with the existing or desired character of the area, noting that the existing and previous signs were approved prior to the implementation of the DCP.
- (h) The signage controls in the DCP, including the Oxford Street West signage precinct controls at Section 3.16.12.11, state that signage is not to be located above awning level, or 4m where no awning exists. This may only be varied where upper-level signage is an integral part of the significance of a heritage building. Advertising structures above awning level are inconsistent with the desired future character of the area.
- (i) The submitted DA documentation identifies 2 other advertising billboards of a similar scale in close proximity to the subject site and notes that these form part of the existing character of the area. This includes the rooftop billboard signs at 191-195 Oxford Street and 217 Oxford Street. In relation to 191-195 Oxford Street (located to the south-east on the opposite corner of Oxford Street), development consent was granted by the NSW Land & Environment Court to demolish the existing building on the site and build a new hotel. The retained advertising billboard, however, was not approved as part of this decision (as it did not have existing use rights). Council therefore issued a development control order requiring removal of the billboard. The owner separately appealed the decision of the court and the development control order (i.e. *Save the Robots v The Council of the City of Sydney (s56A Appeal)* and *Save the Robots and JC Decaux v The Council of the City of Sydney (Development Control Order appeal)*). In response the appeals were dismissed, and removal of the existing billboard will be required. The subject billboard would therefore be the only remaining rooftop billboard sign fronting Taylor Square. Intensification of this sign would therefore be significantly out of character.

Visual impacts

149. Section 3.16.7.2(3) 'Replacement, modification or conversion of an existing approved advertising structure to an electronic variable content advertising structure' of the DCP requires that electronic variable content advertising structures not result in a visual impact that detracts from the existing visual character of the site, streetscape or skyline and requires that a visual impact assessment report be prepared in accordance with Section 11.1 of Schedule 11 (Electronic variable content advertising structures) of the DCP.
150. A Visual Impact Assessment (VIA), prepared by Urbis, accompanies the application. The VIA identifies the potential visual exposure of the sign to be to the south and south-west, and to a lesser extent the south-east due to the orientation of the sign and major surrounding road corridors. Visibility to the site is predominantly from within 200m along Oxford and Flinders Streets to the south-east.
151. The site has a constrained but intensively used visual catchment, the majority of which is occupied by the busy intersection of Oxford Street, Bourke Street/Taylor Square and Flinders Street. A wide range of commercial, retail and public buildings fall within the visual catchment.
152. The VIA concludes that the proposal does not create any further quantitative visual effects in addition to those which already exist. It further concludes that the proposal does not extend or modify the visual catchment beyond that of the existing sign and that the digitalisation of the sign will not affect the intrinsic scenic quality or overall composition of any views which include the existing sign. The VIA states that the only perceptible visual change in close or medium distant views is qualitative, generated by levels of luminance (brightness of display) and changes in creative content.
153. Council officers have reviewed the applicant's VIA and are of the opinion that the VIA is incomplete and that the proposal is unsatisfactory for the following reasons:
 - (a) In order to minimise visual impact, Section 3.16.7.2(3)(a) requires that the proposal is to have an advertising display area that improves the visual contribution of the advertising structure to the building and the area in which it is located and should have a smaller advertising display area than the existing approved advertising structure it is replacing. The proposal does not comply with this requirement, with the proposed digital sign being essentially the same size as the existing constructed sign.
 - (b) The proposed electronic advertising sign will display variable content, with the proposed dwell time being a minimum of 25 seconds. This is inconsistent with Section 3.16.7.2(3)(f) of the DCP which requires a minimum dwell time of 45 seconds per advertisement. While it is acknowledged that the minimum dwell time may be decreased to be consistent with the NSW Department of Planning and Environment Transport Corridor Outdoor Advertising Signage Guidelines, this is only acceptable if the sign is within a B6 Enterprise Corridor or B7 Business Park zone (now E3 Productivity Support), a B8 Metropolitan Centre zone (now SP5 Metropolitan Centre), the Broadway and Parramatta Road Signage Precinct, or the Darling Harbour Signage Precinct. The subject site is not located in any of these areas and as such, if the DA were to be considered for approval, it would be recommended that a minimum dwell time of 45 seconds be applied.

- (c) The VIA does not include an analysis or photomontages of the sign's potential impacts at night-time or in dark environments, as required by Sections 11.1(6)(b) and 11.1(6)(e)(iii) of Schedule 11 of the DCP. Based on observations of other signs in suburban city, the nighttime impact is greater as the intense light emission from the sign overwhelms the relatively low output or ambient street and facade lighting. The net effect would see the desirable and identified characteristics of the HCA dominated by an intrusive use not envisaged by the controls.
 - (d) The VIA does not satisfactorily consider the impact of the signs operational attributes (such as variable content and transition times) on the character of the area, as required by Sections 11.1(6)(b) and 11.1(6)(e)(iii) of Schedule 11 of the DCP.
 - (e) The subject building is prominently located on a corner site within Taylor Square. The digital/changing images will therefore be highly visible from within Taylor Square and the approaching streets. This will detrimentally affect the visual amenity of the public domain and will significantly alter the character of Taylor Square and the HCA.
 - (f) The sign sits on top of the building and is therefore highly visible across a wide arc of public viewpoints. The digitalisation of the sign will further increase its visual intrusion due to the regular image changes (i.e. attention-seeking movement and increase visual stimulation) and increased night-time visual pollution. These impacts degrade the amenity of the public domain and the HCA.
 - (g) Despite a history of rooftop signs being provided atop the subject site, large scale roof signs are considered not in keeping with Council's desired visual character for Oxford Square and the Oxford Street streetscape as discussed above in the 'Character of the area' section of this report. This is reiterated at Section 3.8 of the IESEPP which prohibits the display of an advertisement on land within a heritage conservation area.
 - (h) The VIA does not satisfactorily consider the cumulative impacts of the proposal, including the potential visual impacts if all existing signs in the catchment were to be changed to a digital format.
154. For the above reasons, the proposal is not supported. It is also noted that the previous proposal on this site (i.e. the Class 1 appeal which was dismissed by the NSW Land & Environment Court on 22 July 2015) was for a sign with a digital screen measuring 12.436m x 4.39m (i.e. 54.59sqm). The digital sign proposed as part of the subject application measures 15.36m x 6.1m (i.e. 93.7sqm) and therefore is approximately 71% larger. The visual impact of the proposal will therefore be greater than the previously refused digital sign proposal.

Public benefit

155. In accordance with Section 3.11(3) of the IESEPP, the consent authority must not grant consent unless arrangements that are consistent with the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (the Guidelines) have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.
156. Section 4 of the Guidelines outlines the Public Benefit Test requirements for advertisements within transport corridors and states:

“The public benefit test is an assessment of how the local community will benefit as a result of the display of the advertisement.

The level of public benefit for a given SEPP 64 advertisement is to be negotiated and agreed upon between the consent authority and the applicant. The public benefit can be provided as a monetary contribution or as an ‘in-kind’ contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities including benefits such as:

- * improved traffic safety (road, rail, bicycle and pedestrian);
- * improved public transport services;
- * improved public amenity within, or adjacent to, the transport corridor;
- * support school safety infrastructure and programs; and
- * other appropriate community benefits such as free advertising time to promote a service, tourism in the locality, community information, or emergency messages.”

157. This concept is detailed at section 3.16.7 'Advertising structure and third-party advertisements' of the DCP which states at Section 3.16.7.2(9) that electronic variable content advertising structures are to provide a public benefit in accordance with State Environmental Planning Policy 64 (now the IESEPP). The provisions state that unless otherwise specified by Council, the public benefit is to be satisfied by making 10 per cent of the advertising time (rounded to the nearest whole number) available free of cost for use by the City of Sydney to display public information, community messages and promotion of Council events and initiatives. The advertising time is to be equally distributed throughout the hours of operation of the structure.
158. Section 3.16.7.1(1) of the DCP further states that billboards displaying third-party advertisements may only be considered in exceptional circumstances. One of the exceptional circumstances is demonstrating the sign is advertising a civic or community event in the City.
159. The applicant states in the accompanying Statement of Environmental Effects (SEE) that:
- "The proponent proposes a public benefit of 20% of time on the new digital screen to be shared between Council and community groups, such as Qtopia. It is considered that this arrangement provides a suitable public benefit as required by the Guidelines".
- A letter of support from Qtopia accompanies this application advising that they “consider this sign an excellent opportunity to promote the LGBTIQ community and their concerns.”
160. It is the City of Sydney's practice to secure public benefit offers through a Planning Agreement. A Planning Agreement offers a suitable method to capture all of the details of the public benefit offer, such as advertising requirements, how Council would upload, replace and monitor its advertising content, digital formatting, reporting on screen time data, enforcement and dispute procedures etc. Once finalised, the Planning Agreement must be signed by all relevant parties, including the property owner, and registered on the land title.

161. While the SEE (prepared by Planning Lab) states that the screen time will be shared with Council, the applicant has not submitted a formal Public Benefit Offer letter to Council. Only once a formal offer (i.e. a signed Public Benefit Offer letter) is made, can negotiations and drafting of the Planning Agreement commence. Once a draft has been agreed, it is then exhibited for 28 days before it can be signed by the parties.
162. It is Council's Planning Agreement Section's expectation, however, that any Planning Agreement would secure a 10 per cent advertising time in accordance with Section 3.16.7.2(9) of the DCP. Any additional free time for community messaging, such as that mentioned by Qtopia would need to be arranged separately between the property owners and the relevant community group.
163. Given that a formal Public Benefit Offer has not been provided as required by Section 3.11(3) of the IESEPP and Section 3.16.7.2(9) of the DCP and the owner has not entered into a Planning Agreement with the City, the DA cannot be supported.

Owner's consent and inadequate/insufficient information

164. In addition to the issues identified above, inadequate and insufficient information has been submitted to support the proposed development as follows:
 - (a) If existing use rights are established (see details in the 'Discussion - Existing use rights' section above), the existing use rights would apply to the use of the signage only. The Section 4.15 Assessment under the EP&A Act must therefore be made on the sign as a new structure and should not be limited to an assessment of the difference in impacts between the existing sign and the proposed sign.
 - (b) The details of possible variable content have not been established to enable a detailed assessment against the relevant controls, including the IESEPP, the LEP, the DCP, and the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017 noting that the DA documentation relies on conditions of consent to establish the relevant parameters.
 - (c) The accompanying architectural drawings provide limited/missing details and fail to adequately describe the application. In the event the DA was to be considered for approval, the following additional information would be required to enable a full assessment of the proposal:
 - (i) an existing site plan and section plans
 - (ii) details of the digital sign, noting that the drawings depict the proposed sign and structure as having the same thickness/depth as the existing sign, despite the existing static sign having a printed vinyl 'skin' and the proposed digital sign having an LCD screen
 - (iii) a survey plan, prepared by a registered surveyor, showing the location of the existing and proposed structures in relation to the property boundaries

- (iv) details of all encroaching structures. As shown in Figure 11, a portion of the existing structure sits over the parapet wall to Bourke Street/Taylor Square. This element is not depicted on either the existing or proposed drawings. While the drawings note that the existing access gantries will be retained and upgraded to meet current WHS standards, these details have not been provided. Furthermore, it is unclear if any works are proposed/required to the overhanging element, noting that Council's owner's consent to submit the DA is required for any works that encroach outside of the property boundaries. The DA cannot be approved without the relevant owner's consent.

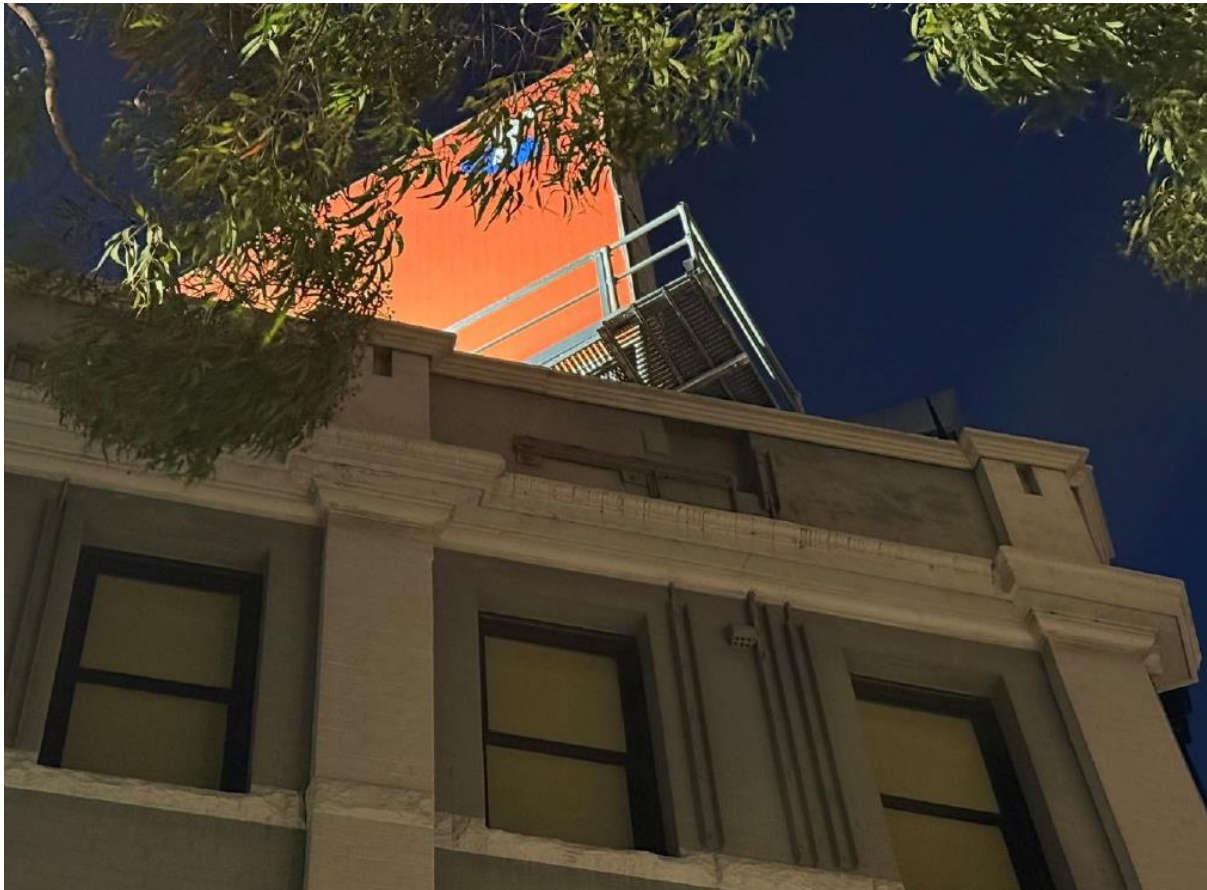


Figure 11: Existing structure/gantry shown sitting over the parapet wall to Bourke Street

- (v) Details of the external cladding, noting that the existing sign consists of structural elements covered in what appears to be white/light coloured metal cladding with a vertical profile. It is unclear from the plans, however, whether the existing cladding will remain.
- (vi) Existing and proposed rear elevation plans. The rear of the sign is visible from Oxford Street west of the site and from Bourke Street (see Figure 12 and Figure 13). The rear of the site is presently white/light coloured; however, it is unknown if this is to remain unchanged.



Figure 12: Rear of sign structure as viewed from Bourke Street (Google Streetview)



Figure 13: Rear of the sign from Oxford Street (Google Streetview July 2017) showing sign when trees not in leaf

- (vii) details of the proposed materials, colours and finishes
- (viii) demolition drawings and details. It is noted that the external lighting and parts of the sign structure are proposed to be removed, but no details have been provided

- (ix) details of the continual power supply for the electronic advertising structure as required by Sections 3.16.4(6) and 3.16.7.2(2)(k) of the DCP
- (x) amended plans showing the demolition of the existing illuminated 'oOh' logo sign (see Figure 14). This sign was not present in Google Streetview images in April 2008 but appeared in the November 2009 images. This sign sits outside of the overall sign extent and therefore is not an exempt part of the third-party advertising sign. While this portion of the sign does not appear on the proposed architectural drawings, no demolition details have been provided to confirm its removal.

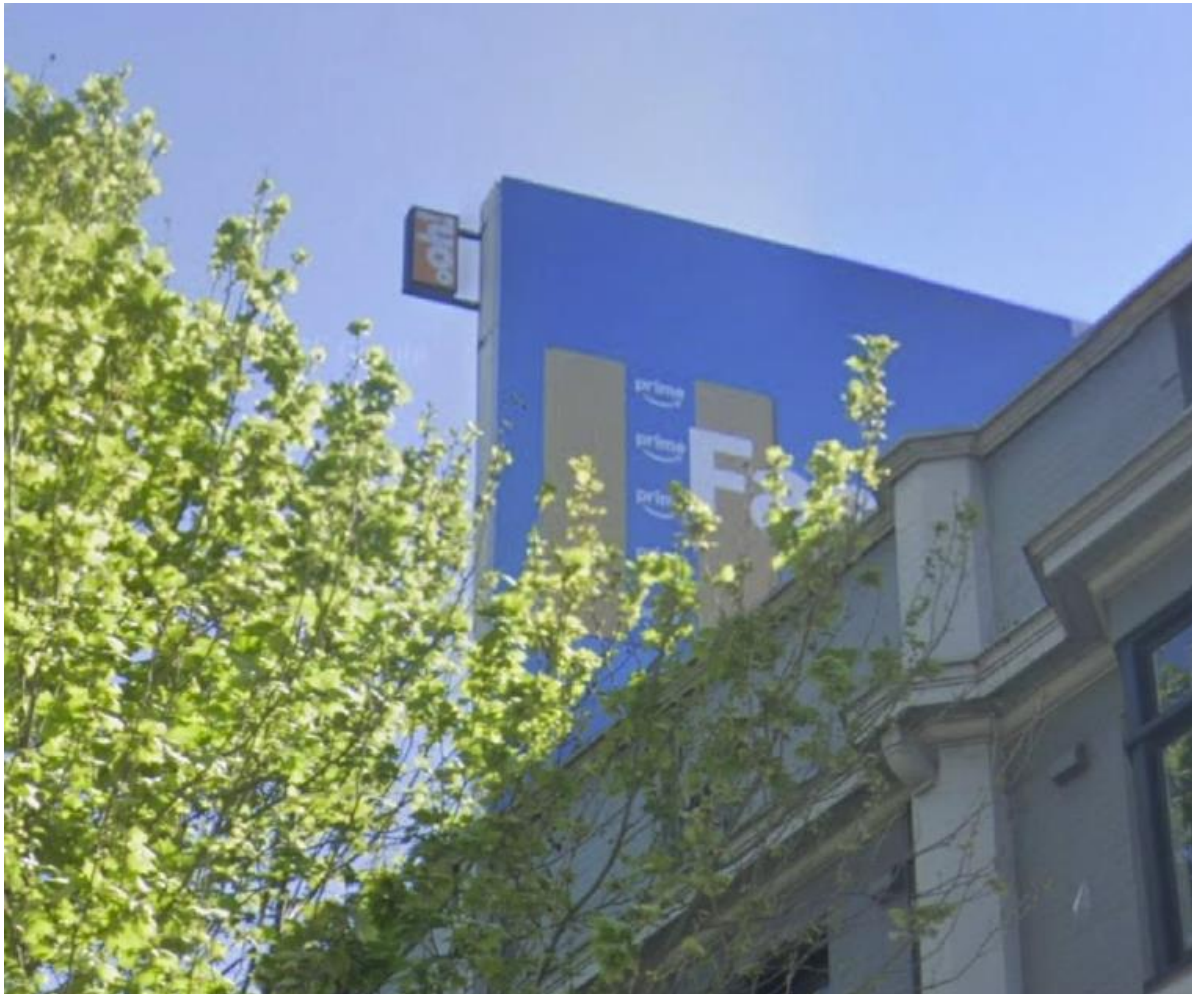


Figure 14: Unauthorised oOh! Media logo sign attached to the existing sign structure

- (xi) an updated Visual Impact Assessment (VIA) addressing the following:
 - (i) The VIA report includes images of the existing sign, which depicts the sign displaying a largely dark advertisement against a light sky (see Figure 15). The photomontages of the proposed sign, however, have been prepared using an image of an advertisement that is light and predominantly depicts the image of a sky (see Figure 16). This has the effect of diminishing the visual impact of the proposed sign within the assessment report. The proposed sign will have variable content, which is proposed to change every 25 seconds (although the DCP specifies a minimum of 45 seconds), 24 hours a day.

The proposed photomontages, with a background that assimilates with the surrounding sky, are therefore not a true representation of the proposal.



Figure 15: Extract from VIA depicting the sign



Figure 16: Extract from VIA depicting the proposed sign

- (xii) updated architectural plans to address the following:
 - (i) The Lighting Impact Assessment report states that rear access to the digital screen is required for maintenance. The architectural drawings do not demonstrate how this is accommodated.
- (xiii) an updated Lighting Impact Assessment, prepared in accordance with Council's guidelines in Clause 11.2 of Schedule 11 (Electronic variable content advertising structures) of the DCP and Section 3.16.7.2(4) of the DCP, to address the following:
 - (i) The Lighting Impact Assessment states that, "(t)he signage includes baffles which mitigate upward waste light, resulting in an Upward Light Ratio (ULRL) of not more than 0.45*. Alternative digital sign manufacturers may be used for this installation as long as they have equivalent lighting and performance characteristics and are commissioned as described in this report." It is unclear if this occurs within the digital screen or is an element on the surface of the screen. If external, the architectural drawings will require additional detail.
 - (ii) The Lighting Impact Assessment report does not identify the surrounding shop top housing (i.e. existing and approved). Council's records indicate that there is shop top housing from 177 Oxford Street and from 219 Oxford Street eastwards. Additional assessment is required to ensure proposed impacts to all surrounding residential uses are demonstrated.

Consultation

Internal Referrals

165. The application was discussed with Council's Transport and Access Unit, Heritage Unit and Urban Design Unit. Relevant comments have been included in the 'Discussion' section of this report.

External Referrals

Transport for NSW

166. Pursuant to Section 3.16 of the SEPP (Industry and Employment) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
167. A response was received on 4 November 2025 advising that TfNSW has reviewed the submitted documents against the NSW Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and the requirements within Schedule 5 of the IESEPP and cannot provide concurrence.
168. The applicant submitted an additional report prepared by Bitzios Consulting dated 18 December 2025 and requested that TfNSW reconsider the application.

169. A response was received on 10 February 2026 advising that TfNSW has reviewed the additional documentation and reiterates that it does not support the proposal for the reasons set out in its letter dated 4 November 2025.
170. See further details in the 'Discussion - Traffic safety' section of this report.

Advertising and Notification

171. In accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2029, the proposed development was notified for a period of 28 days between 13 October 2025 and 11 November 2025. A total of 258 property owners and occupiers were notified.
172. No submissions were received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

173. If approval were to be recommended, the development would not be subject to a contribution. The proposed development would not result in any additional residents or workers within the site and is therefore excluded from the need to pay a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

174. The site is located within the 'residual land' affordable housing contribution area. If approval were to be recommended, it would be excluded from the need to pay a Section 7.13 affordable housing contribution as the development is development for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area.

Housing and Productivity Contribution

175. If approval were to be recommended, the development would not be subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
176. While the site is located with the Greater Sydney region, the development is not a type of commercial development to which the Housing and Productivity Contribution applies.

Relevant Legislation

177. Environmental Planning and Assessment Act 1979.

Conclusion

178. The proposed digital advertising sign is located within the C17 Oxford Street heritage conservation area and is therefore prohibited under Section 3.8 'Prohibited advertisements' of the IESEPP. The display area of the proposed digital advertising sign exceeds 45sqm (i.e. 93.7sqm) and is therefore also prohibited under Section 3.17 'Advertising display area greater than 45 square meters' of the IESEPP.
179. Given these prohibitions, the applicant seeks to rely on the existing use rights provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021, which are applied in circumstances where land uses have commenced lawfully, and a subsequent change in planning legislation has the potential to restrict how that use may be conducted into the future.
180. Existing use rights, however, have not been adequately established by the applicant. In the absence of valid existing use rights, the proposed development is prohibited.
181. As specified by section 3.16 'Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road' of the IESEPP, the consent authority must not grant development consent to the proposal given that the concurrence of Transport for NSW (TfNSW) has not been granted. This is due to the road safety requirements within Schedule 5 of the IESEPP and the Transport Corridor Outdoor Advertising and Signage Guidelines not being met.
182. In accordance with Section 3.11 'Matters for consideration' of the IESEPP, the consent authority must not grant consent unless it is satisfied that the proposal is acceptable in terms of the public benefits to be provided in connection with the display of the advertisement. While the DA documentation states that the proponent proposes a public benefit of 20% of time on the new digital screen to be shared between Council and community groups, a formal Public Benefit Offer letter has not been submitted to allow negotiations and a draft Planning Agreement to be prepared and exhibited.
183. The proposed development exceeds the 'height of buildings' development standard prescribed under Clause 4.3 of the LEP, and the applicant's written Clause 4.6 request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standard.
184. The applicant's written Clause 4.6 request to vary the maximum display area of the sign as specified at Section 3.17 of the IESEPP, is also unacceptable given that existing use rights have not been established and Clause 4.6 of the LEP cannot be used to vary a prohibition.
185. The proposed development fails to demonstrate design excellence as required by Clause 6.21C of the LEP. The digital sign does not deliver a high standard of architectural design, will not improve the quality and amenity of the public domain, will impact on view corridors, will result in detrimental heritage and visual impacts, and will impact on the safety of road users.

186. For reasons outlined in this report, the proposed digital LED sign is incompatible with the desired character of the Oxford Street Darlinghurst locality and the Oxford Street Cultural and Creative Precinct. The proposed development will adversely impact on the significance of the Oxford Street heritage conservation area, in that it is incompatible with the architectural quality of the building (which is proposed for heritage listing), undermines the contributory value of the building and visually dominates the setting of the surrounding heritage items and conservation area.
187. Owner's consent is a prerequisite for a consent authority to grant approval to a DA. The application provides inadequate information to determine if further owner's consent is required given that a survey plan has not been lodged with the application and it is unclear if any works are proposed outside of the property boundaries. The proposal also lacks adequate plans and various information to enable a detailed assessment to be undertaken against all relevant planning controls.
188. While the proposal is described as the upgrade of an existing externally illuminated static rooftop advertising structure with an internally illuminated digital advertising sign, the development constitutes a materially different form of signage in terms of its potential heritage, visual and traffic safety impacts. The proposed digital LED rooftop advertising sign represents an intensification of visual, heritage, and environmental impact, not a neutral upgrade of existing infrastructure.
189. The proposed digital sign appears to be similar (but larger) than a refused application in 2014 (Application No. D/2014/1002), which was unsuccessfully appealed in the NSW Land and Environment Court. For the same, and further additional reasons, this application is unsupportable.
190. Any approval of the proposed development would also set an undesirable precedent for future signage within the Oxford Street HCA and Oxford Street West signage precinct, noting that there are currently no digital billboards in the area.
191. Having regard to the above, the application is recommended for refusal.

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