

# MEMORANDUM

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**TO** : Chris MacKey – Senior Development Assessment Officer  
**FROM** : Gilead Chen- Strategic Planner  
**CC** : Cathy McMahon – Principal Planner  
**FILE NO.** : DA-00(369).02  
**DATE** : 2 October 2014  
**SUBJECT** : 1008 Botany Road, Mascot (Lot 1 DP 877065)

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## Background

The subject site is located at 1008 Botany Road, Mascot (Lot 1 DP 877065). The development application seeks the following:

- Modify the approved development by the replacement of the existing Joyce Drive sign with a fabric façade screen and a new digital sign (variable messaging sign) within the fabric façade screen.

The dimension of the sign will be as follows:

	Previously Approved	Proposed Digital Sign
<b>Height</b>	10.6m	6.58m
<b>Length</b>	46m	25.24m
<b>Area</b>	487.6sqm	166.08sqm

As stated in the SEE, the fabric façade screen will not contain any advertising content and will have an “ambient” appearance of a colour/pattern/scene. However, no further information (i.e. fabric façade screen) has been provided.

The digital display will not include moving elements and each image will be completely static from its first appearance to the commencement of a change to another display.

**Note:** *No other work or amendment has been considered as part of this referral.*

## Development Application (DA 00/369)

Development Consent No. 00/369 was issued by Council on 1 September 2000 for advertising signs to be affixed to the car park building on the site. Condition 2 of the development consent reduces the overall dimension of the advertising display area along the Joyce Drive to 46m in length and 10.6m in height. In addition, the lowest part of the display area is to be not less than RL 12.7m (ground level is RL 5.5m) and not exceed RL 23.3 in height.

Condition 33 also requires the following:

- *The signfaces are to contain a minimum of 70% in background format and a maximum of 30% in word content, the latter including logo's, heralds, symbols and the like and the prescribed ratio of background/word content must be subject to verification by a Registered Surveyors Report.*

### **Section 96 (DA 00/369/01)**

Development Consent No. 12/213/01 was issued by Council on 24 May 2005 to modify Condition 4 of the development approval in relation to the payment of an annual signage fee to Council in accordance with Council's adopted Schedule of Fees and Charges. No other amendment was approved as part of the Section 96 application.

### **SEPP 64 – Advertising and Signage**

Clause 19 of the SEPP 64 states that the following:

*The 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.*

Council has not prepared a development control plan or advertising design analysis for signage over 45sqm. Hence, Council is unable to grant development consent to **new advertising display** over 45 square metres.

The subject signage was approved prior to the introduction of SEPP 64 (i.e. by Council on 1 September 2000) and may be able to rely on the existing use right for the new digital sign. Council's Development Assessment Officer should seek legal advice to the limitation of Division 10 (i.e. Existing uses) of the *Environmental Planning and Assessment Act 1979*.

Even though SEPP 64 is not applicable to this proposal, Clause 22 and Schedule 1 of SEPP 64 should be considered for guidance purposes.

### **Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007)**

The application must be assessed in accordance with Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007) prepared by Department of Planning and Environment.

### **Draft Botany Bay Local Environmental Plan 2012**

In accordance with the *Environmental Planning and Assessment Act 1979*, the draft BBLEP 2012 (i.e. Standard Instrument) was placed on public exhibition from Thursday 22 May 2012 to Friday 22 June 2012. Consequently, JBA Planning on behalf of Manboom made a representation to Council seeking the rezoning of their sites to B5 - Business Development zone. For more information, please refer to the attached documentation.

## Botany Bay Local Environmental Plan 2013

### Zoning

The subject site is zoned as B5 – Business Development in the BBLEP 2013.

The objectives of the B5 zone are as follows:

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

**Signage** is not prohibited in the B5 zone and is therefore permissible with consent.

### **Botany Bay Development Control Plan 2013 (Draft Amendment No.1)**

Part 3D.10 – Advertising Structure and Advertisement of the Botany Bay Development Control Plan 2013 (Draft Amendment No.1) does not apply to this development application as the proposed advertising structure is greater than 45sqm (i.e.166sqm). However, the proposal should be consistent with Part 3D.1.4 – General Objectives; Part 3D.2 – General Requirements for All Signage; and Part 3D.3.1 – Illuminated and Animated Signage.

### **Referrals**

Due to the nature of the sign and proximity to the Sydney Airport, Joyce Drive and railway corridor, it is recommended that the application be referred to Sydney Airport; Road and Maritime Services and Australian Rail Track Corporation (ARTC) for comments.

The Department of Planning and Environment is currently preparing a guideline/policy in relation to electronic advertising and signage. Council's Development Assessment Officer should consult the Department prior to the determination of the application.

### **Discussion**

Council's Strategic Planner generally has no objection to the proposal but questions the suitability of the Section 96 application as it involves the replacement of a single static sign to an electronic sign. As the approval of this Section 96 application will set a precedent for other signage located within the Botany Bay LGA, Council's Development Assessment Officer **must** seek legal advice on the applicability of Section 96 application or a new development application would be required for the proposal.

If the application is recommended for approval, a condition should be incorporated into the development consent to ensure colour/pattern/scene of the fabric façade screen is complementary to the character and streetscape of the area. Details of the fabric façade screen (i.e. colour/pattern/scene) must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority. No advertising content is permitted on the fabric façade screen.

King regards

  
Gilead Chen

OK  
CME  
7/10/14

3