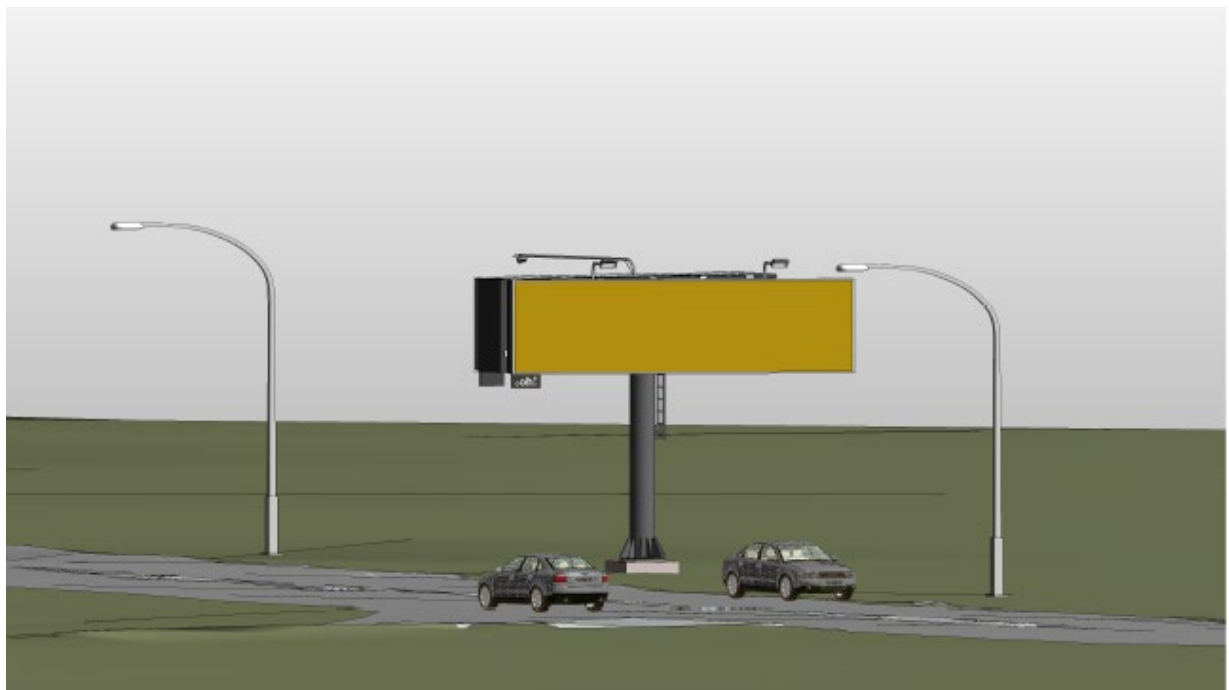


# 150 Cormorant Road, Kooragang Advertising Sign

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Part 4 Development Application (DA 22/8565)

November 2022



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*Cover image: General Arrangement Plan 3D View (Arcadis, 2022)*

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# Glossary

Abbreviation	Definition
<b>Applicant</b>	oOh! Media
<b>Council</b>	City of Newcastle
<b>DA</b>	Development Application
<b>Department</b>	Department of Planning and Environment
<b>Development</b>	The development as described in the SEE and RTS for the advertising sign at 150 Cormorant Road, Kooragang
<b>EP&amp;A Act</b>	Environmental Planning and Assessment Act 1979
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2021
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>RFI</b>	Request for Information
<b>RTS</b>	Response to Submissions letter titled <i>RFI Response Letter – 30 Cormorant Road Kooragang</i> by Barr Planning dated 29 September 2022
<b>SEE</b>	Statement of Environmental Effects titled <i>Statement of Environmental Effects Advertising Sign 30 Cormorant Road, Kooragang</i> by Barr Planning dated 23 May 2022
<b>SEPP</b>	State Environmental Planning Policy

# Executive Summary

## Introduction

This report provides an assessment of DA 22/8565 seeking approval for the construction and operation of an advertising sign which is located on land legally described as part of Lot 33 DP 1184229, 150 Cormorant Road, Kooragang (the site), in the Port of Newcastle (PON) Lease Area, which is located within the Newcastle local government area (LGA).

The Applicant is oOh! Media and the site is owned by Port of Newcastle Lessor Pty Ltd. The Minister for Planning is the consent authority for the development under clause 5.6 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* as the development is located on land within the PON Lease Area. However, as the Applicant disclosed a reportable political donation under Section 10.4 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), the application will be determined by the Independent Planning Commission, as delegate for the Minister for Planning, under the Minister's delegation of 14 September 2011.

## Engagement

The Department publicly exhibited the application for 14 days from Friday 5 August 2022 until Thursday 18 August 2022. During the exhibition period, the Department received a submission from City of Newcastle Council (Council) and advice from Transport for New South Wales (TfNSW). No submissions from the public were received.

Council advised that the site address was 150 Cormorant Road, Kooragang rather than 30 Cormorant Road as referred to in the application documentation. The Department's assessment report and draft consent have been named accordingly. Council also commented on the application of development contributions and the visual integration of the proposal. TfNSW provided general comments on the proposal including to ensure the proposal meets the relevant criteria and legislation.

In response to issues raised in submissions, the Applicant submitted a Response to Submissions report which provided additional information and justification for the proposal. Council provided a further submission providing comments in response to the Response to Submissions.

## Assessment

The Department has considered the merits of the proposed development in accordance with the relevant matters under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the issues raised in the submissions and the Applicant's response.

The key issues associated with the proposed development are site suitability, visual impact, illumination, road safety and public benefit.

The Department has carefully considered the proposal as well as the issues raised in submissions and is satisfied the proposal is acceptable for the following reasons:

- the proposal is consistent with the objectives of the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Port Master Plan 2040 and the Newcastle Local Strategic Planning Statement;

- the height and scale of the proposal appropriately relates to the existing site context and surrounding features and would not result in any unreasonable amenity impacts;
- it would not result in any significant traffic or safety impacts;
- the proposed illumination levels are acceptable as the proposal is compliant with the Guidelines, has demonstrated compliance with the relevant Australian Standards and would not result in any adverse illumination impacts;
- the proposal would result in sufficient public benefits as it would be used for community and Council purposes for at least 5% of display time; and
- all other issues have been appropriately addressed by recommended conditions of approval.

## **Conclusion**

The Department's assessment concludes the proposed development is appropriate as it would not result in any unacceptable amenity, visual or safety impacts and it complies with the requirements of State Environmental Planning Policy (Industry & Employment) 2021. It is therefore recommended that the application be approved, subject to conditions.

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# 1 Introduction

- 1.1.1 This report provides an assessment of a development application (DA) for advertising signage on land legally described as part of Lot 33 DP 1184229, 150 Cormorant Road, Kooragang (the site).
- 1.1.2 The proposal seeks approval for the construction and operation of a new double-sided 'Super 8' sign including the construction of an advertising structure and the advertisement (DA 22/8565).
- 1.1.3 The proposal has been submitted by oOh! Media (the Applicant).

## 1.2 Site Description

- 1.2.1 The site is located approximately 6 kilometres north east of the Newcastle CBD within the Local Government Area (LGA) of the City of Newcastle (**Figures 1**). The site is legally defined as Lot 33 in DP 1184229 (**Figures 2**).
- 1.2.2 The site was previously used for the Energy Australia wind turbine, established in 1997. The 73m wind turbine was dismantled in 2014 and relocated to an offsite location. The site is currently mostly undeveloped with the exception of a temporary use fenced construction car park in the south eastern corner. The sign is proposed to be located southeast of the intersection between Cormorant Road (a state classified road) and Kooragang Rail Depot Access Road (**Figures 2**).
- 1.2.3 The site is zoned as 'SP1 Special Activities' under *State Environmental Planning Policy Transport and Infrastructure* 2021 (Transport and Infrastructure SEPP) located within the Port of Newcastle (PON) Lease Area, as identified on the Lease Area Map in the Transport and Infrastructure SEPP.

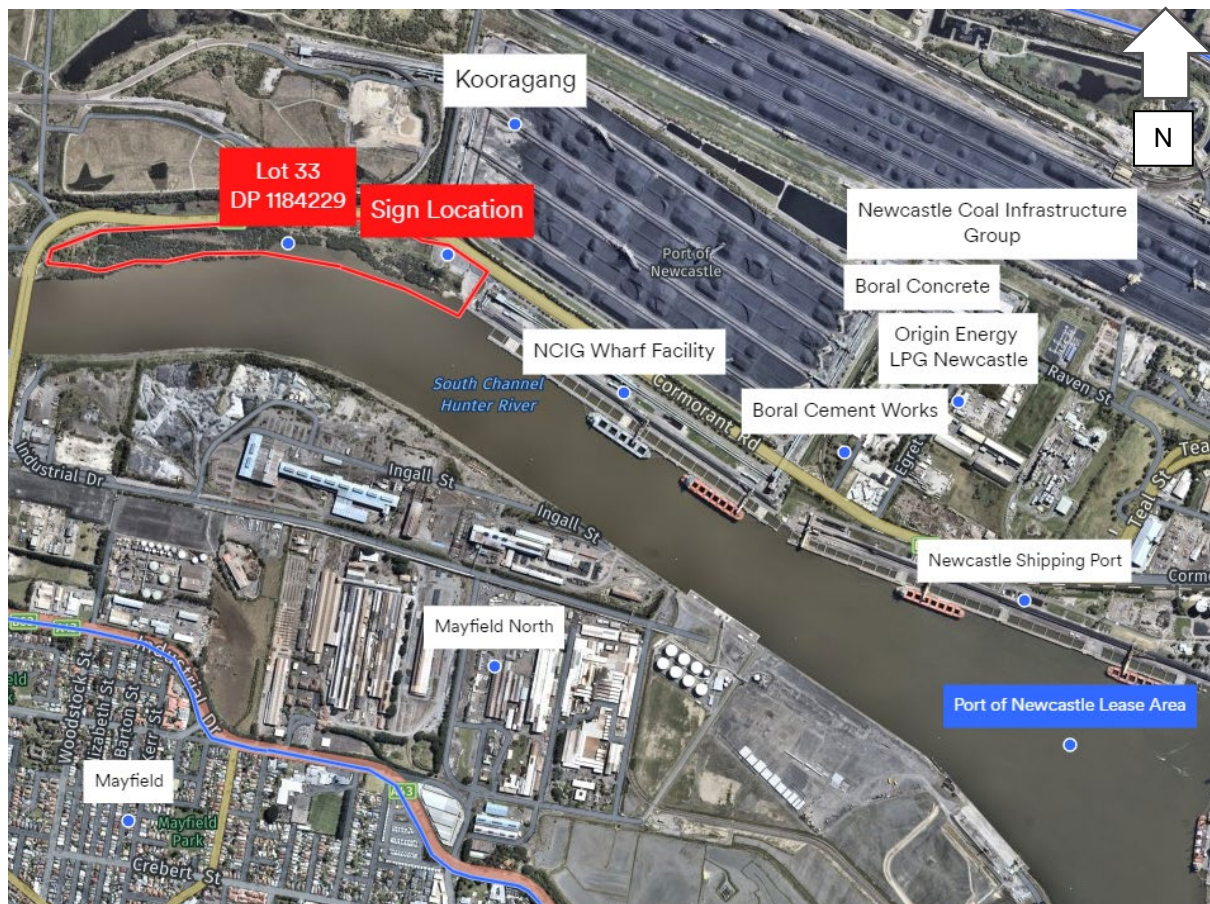
## 1.3 Port of Newcastle and surrounding area

- 1.3.1 Newcastle harbour is the largest and oldest export port on the eastern seaboard of Australia, with over 2,200 trade vessels visiting the port every year and export activities dating back to 1799. The Port of Newcastle is a significant export location for bulk commodities such as coal, ore and grain, with up to 164 million tonnes of cargo passing through the port annually.
- 1.3.2 The general use of the area is for industrial purposes with a number of industries in close proximity including coal loading berths, fertiliser and cement manufacturing, waste management services, freight and logistics transport services and car salvage and repair yards.



**Figure 1** | Regional context (Base source: Google Maps)





**Figure 2 |** Surrounding context and site location (Base source: Nearmap)

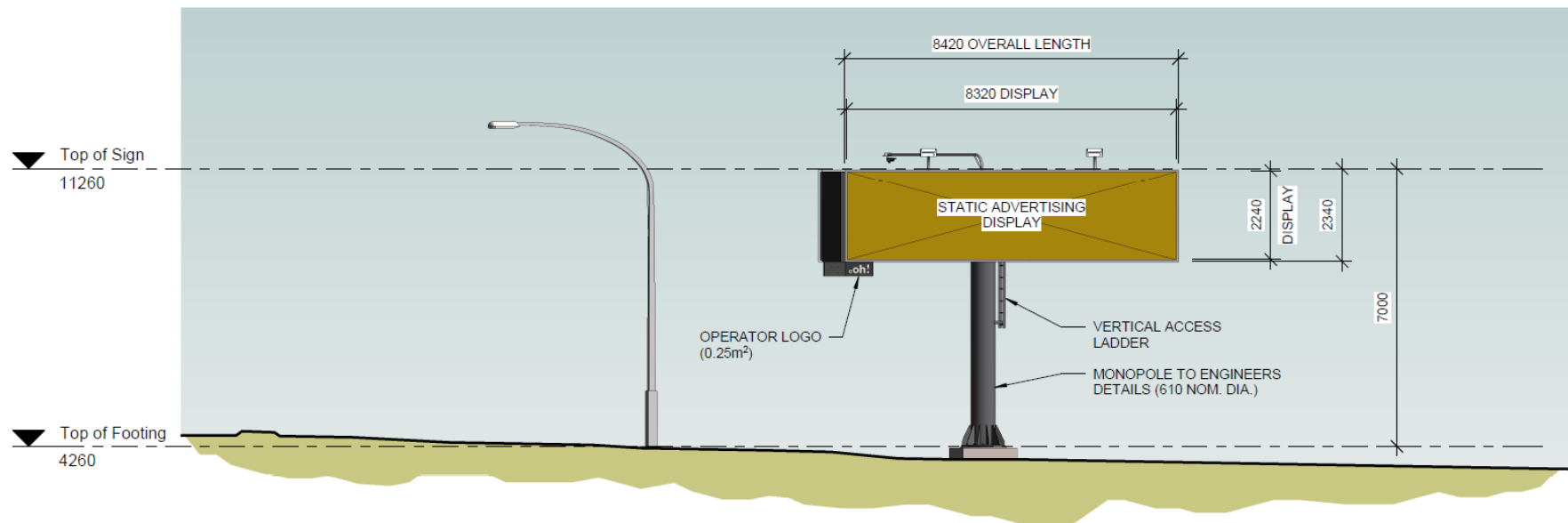
## 2 Project

### 2.1 Description of the Development

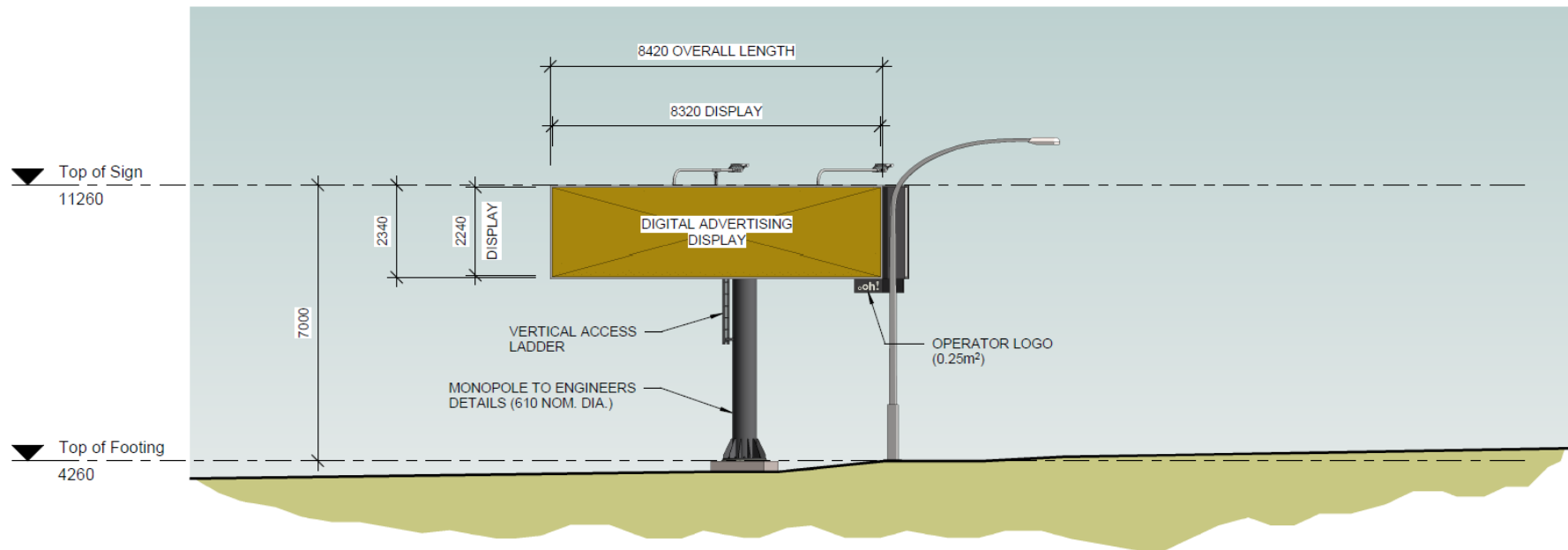
- 2.1.1 The proposal seeks consent for the construction and display of a double sided 'Super 8' sign with one digital and one static sign. The eastbound advertisement (Sign 1) will comprise a static display and the westbound advertisement (Sign 2) will comprise a digital LED display.
- 2.1.2 The proposed signage is a double-sided freestanding monopole with nominal display faces and the provision of ancillary components. The structure will be founded on reinforced concrete bored piles and pile caps. Vertical ladder access will be provided on the proposed monopole.
- 2.1.3 The proposed design and operation specifications of the signage is outlined in **Table 1**. The proposed signage details are shown at **Figure 3** and **Figure 4**.

**Table 1 | Details of Proposed Signage**

Aspect	Eastbound (Sign 1)	Westbound (Sign 2)
Advertising display area	19.95m <sup>2</sup>	19.95m <sup>2</sup>
Total height	7m	
Clearance from top of footing to the bottom of the sign	4.66m	
Signage display	Static	Digital LED
Dwell time	N/A	25 seconds
Maximum illuminance limit during post night-time period	200 cd/m <sup>2</sup> (externally illuminated from top)	350 cd/m <sup>2</sup>



**Figure 3 | Proposed Eastbound Signage** (Source: Applicant's documentation)



**Figure 4 | Proposed Westbound Signage** (Source: Applicant's documentation)

## 3 Strategic context

### 3.1 Hunter Regional Plan 2036

- 3.1.1 The Hunter Regional Plan 2036 (HRP) is a 20-year blueprint for the future of the Hunter region by providing an overarching framework to guide future detailed land use plans, development proposals and funding decisions.
- 3.1.2 Direction 13 seeks to 'plan for greater land use compatibility'. The proposal will provide ongoing investment for the resource industry, providing investment and development for the Port of Newcastle. The proposal is located in an industrial area with existing infrastructure and adjacent to a road corridor and therefore does not create any conflicts in land use compatibility,
- 3.1.3 The Department has considered the strategic context of the development against the objectives of the HRP and is satisfied that the proposal is consistent with the intent of the HRP as the development does not create any conflicts in land use compatibility.

### 3.2 Greater Newcastle Metropolitan Plan 2036

- 3.2.1 The Greater Newcastle Metropolitan Plan 2036 (GNMP) is intended to support the overarching strategic planning framework established by the HRP. Strategy 3 seeks to increase domestic and global trade capabilities at Newcastle Port including the Department working with the Port of Newcastle to facilitate the diversification of activities at Newcastle port to adapt to changing demand.
- 3.2.2 The Department has considered the strategic context of the development against the objectives of the GNMP and is satisfied that the proposal will diversify the use of Port of Newcastle land. The Department considers that the development is consistent with the GNMP.

### 3.3 Draft Hunter Regional Plan 2041

- 3.3.1 The Draft Hunter Regional Plan 2041 (DHRP) was exhibited from 6 December 2021 until 4 March 2022, with submission currently being reviewed by the Department. The DHRP has reviewed and updated the current HRP to address changes that have occurred within the region and the broader area that will have an impact on the Hunter Region.
- 3.3.2 The DHRP sets District specific planning priorities, with the Newcastle City Council priorities seeking to continue to implement the GNMP.
- 3.3.3 The Department considers the proposed development is generally consistent with the intentions of the DHRP.

### **3.4 Port Master Plan 2040**

- 3.4.1 The Port Master Plan 2040 intends to outline key strategic development and trade opportunities for the Port of Newcastle and the broader region to 2040. The plan provides a strategic approach to identifying future development and opportunities including supporting the coal precinct in Kooragang. The plan promotes capacity of the Port and provides details on further coal export terminals at The Port, one being proposed in Kooragang.
- 3.4.2 The Department has considered the strategic context of the development against the objectives of the Port Master Plan 2040 and is satisfied that the proposed development, will support the diversification and growth of the Kooragang precinct of the Port and will be complementary to the Kooragang Precinct's undergoing transition.

### **3.5 Newcastle Local Strategic Planning Statement**

- 3.5.1 The Newcastle Local Strategic Planning Statement (LSPS) guides land-use planning over the next 20 years, giving effect to and implementing land use planning actions in other adopted plans and strategies.
- 3.5.2 Planning Priority 15 within the LSPS outlines the importance of retaining and protecting land around the Port to enable growth and diversification of the Port and minimise environmental and amenity impacts to surrounding land uses.
- 3.5.3 The Department has considered the strategic context of the development against the objectives of the Newcastle LSPS as it would support the diversification of the Port whilst providing a development that minimises environmental and amenity impacts to surrounding land uses.

## 4 Statutory Context

### 4.1 Part 4 development

- 4.1.1 The development is located at Kooragang in the PON lease area, as identified under the Transport and Infrastructure SEPP, and:
- is permissible with development consent under the Transport and Infrastructure SEPP
  - has a capital investment value (CIV) of less than \$100 million
  - is not designated development under Schedule 3 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).
- 4.1.2 Accordingly, the development does not meet the criteria for State significant development as outlined in Clause 5.27 of the Transport and Infrastructure SEPP and is subsequently classified as a Part 4 development under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### 4.2 Consent Authority

- 4.2.1 Under Clause 5.6 of the Transport and Infrastructure SEPP, the Minister for Planning is the consent authority for Part 4 applications on land within the Lease Area of the Port.
- 4.2.2 On 14 September 2011, the then Minister for Planning and Infrastructure delegated functions to determine Part 4 applications to the former Planning Assessment Commission (now known as the Independent Planning Commission (Commission)) where:
- there are more than 50 public submissions in the nature of objections, or
  - the relevant local council has made an objection, or
  - a political disclosure statement has been made.
- 4.2.3 Council did not object to the development and less than 50 public objections were received during the exhibition period. However, reportable political donations were made by the Applicant on behalf of Port of Newcastle Lessor Pty Ltd within the last two years. Accordingly, the development is to be determined by the Commission under delegation.

### 4.3 Permissibility

- 4.3.1 The site is zoned SP1 Special Activities under the Transport and Infrastructure SEPP. 'Advertisement' and 'Advertising Structure' are permitted uses in this zone.
- 4.3.2 The development meets the relevant objectives of the SP1 zone as discussed further in **Appendix B**.

### 4.4 Mandatory Matters for Consideration

- 4.4.1 The following are the relevant mandatory matters for consideration:

- the matters in section 4.15(1) of the EP&A Act
- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act
- Ecological Sustainable Development
- Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

The Department's consideration of these matters is set out below, **Section 6** and **Appendix B**.

#### Environmental Planning Instruments

- 4.4.2 Under Section 4.15 of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) that apply to the development.
- 4.4.3 The Department has considered the development against the relevant provisions of several key EPIs including:
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
  - State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP)
  - State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
  - draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)
- 4.4.4 The Newcastle Local Environmental Plan 2012 (NLEP) and Newcastle Development Control Plan 2012 (NDCP) do not apply to the site. However, the Department has used controls within the NDCP 2012 as a guideline in this assessment.
- 4.4.5 Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix B**. The Department is satisfied the development generally complies with the relevant provisions of these EPIs.

#### Objects of the EP&A Act

- 4.4.6 In determining the application, the consent authority should consider whether the development is consistent with the relevant objects of the EP&A Act. These objects are detailed in Section 1.3 of the EP&A Act.
- 4.4.7 The Department has considered the objects of the EP&A Act in its assessment of the application (see **Appendix B**) and is satisfied that the application meets the objects of the EP&A Act.



## Ecologically Sustainable Development

- 4.4.8 The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.
- 4.4.9 The potential environmental impacts of the development have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended. As demonstrated by the Department's assessment in **Section 6** of this report, the development is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats as there is no vegetation clearing proposed nor any vegetation in close proximity to the proposed works. As such, the Department considers that the development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ESD

## Environmental Planning and Assessment Regulation 2021

- 4.4.10 Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Fees (Part 13, Division 3) have been complied with.

## 4.5 Other approvals

- 4.5.1 The Applicant has not indicated that the proposal is integrated development under section 4.46 of the EP&A Act. An advisory note has been recommended requiring appropriate approvals be sought including any required under section 138 of the Roads Act 1993.

## 5 Engagement

### 5.1 Consultation by the Department

5.1.1 The Department undertook consultation with relevant local and State authorities as well as affected landowners. In accordance with Section 2.22 and Schedule 1 to the EP&A Act, the development application was required to be publicly exhibited for 14 days. This aligns with the minimum exhibition period set out in the Department's Community Participation plan for a development application of this nature.

5.1.2 The exhibition included:

- making the application and SEE publicly available from Friday 5 August 2022 until Thursday 18 August 2022 (14 days) on the NSW Planning Portal;
- notifying landowners in the vicinity of the site about the public exhibition by letter; and
- notifying and inviting comment from relevant State government authorities and Council.

### 5.2 Submissions and Advice

5.2.1 During the exhibition period, the Department received no submissions from the public, one submission from Council and advice from Transport for New South Wales (TfNSW).

5.2.2 A summary of the submissions and advice is provided below and a link to the full copies is provided in **Appendix A**.

### 5.3 Key issues raised in submissions

5.3.1 **Newcastle City Council** provided comments regarding:

- the address of the subject land being 150 Cormorant Road, Kooragang and not 30 Cormorant Road, Kooragang;
- clarification of the appropriate consent authority noting the Transport and Infrastructure SEPP and Industry and Employment SEPP both identify different consent authorities and that the Department's Notice of Exhibition identified the IPC as the consent authority;
- representation of surrounding infrastructure on plans and providing the proposal within the context of streetlights;
- application of appropriate conditions regarding acid sulphate soils and contamination management;
- visual and lighting impacts in context of surrounding buildings, structures or tree canopies;
- the application of a 1% levy of the development cost under the City of Newcastle Section 7.12 Development Contributions Plan; and

- the inclusion of an unexpected finds protocol relating to Aboriginal cultural heritage.

5.3.2 **TfNSW** provided general comments on the proposal including ensuring the proposal meets the criteria of the Transport Corridor Outdoor Advertising and Signage Guidelines (the Guidelines) and Schedule 5 of *State Environmental Planning Policy (Industry and Employment) 2021* and advised that TfNSW can direct the screening, modification or removal of a structure if TfNSW considers it to be a traffic hazard under Section 104 of the *Roads Act 1993*.

## 5.4 Response to submissions

5.4.1 Following the exhibition of the application, the Department placed copies of all submissions and agency advice on the NSW Planning Portal and requested the Applicant respond to issues raised in the submissions. The Department also requested that the Applicant provide a structural Feasibility Statement, an assessment of public benefit and confirmation of the proposed luminance levels of both signs.

5.4.2 The Applicant provided a Response to Submissions (RtS) on 30 September 2022 (see Appendix A). The RtS addressed comments from Council and the Department, specifically:

- the submission of a Structural Design Statement and Structural Feasibility Assessment Calculations;
- details of how the proposal will provide public benefit;
- confirmation of proposed luminance levels;
- discussion regarding the address of the subject land;
- confirmation of the appropriate consent authority, as confirmed by the Department; and
- discussion of applicability of development contributions.

5.4.3 The RtS was made publicly available on the NSW Planning Portal and referred to Council for review.

5.4.4 Council provided the following comments on the Response to Submissions on 20 October 2022:

- confirmation of subject site being 80 Raven Street, Kooragang
- the application of development contributions in the PON Lease Area and the precedent set by other Department Part 4 DA determinations

## 6 Assessment

- 6.1.1 The Department has considered the SEE, the comments raised by TfNSW and Council and the Applicant's RtS in its assessment of the development. The Department considers the key assessment issues to be site suitability, visual impact, illumination, road safety and public benefit.
- 6.1.2 These key issues are discussed in **Sections 6.2 to 6.5**. Other issues considered during the assessment are discussed in **Table 3**.

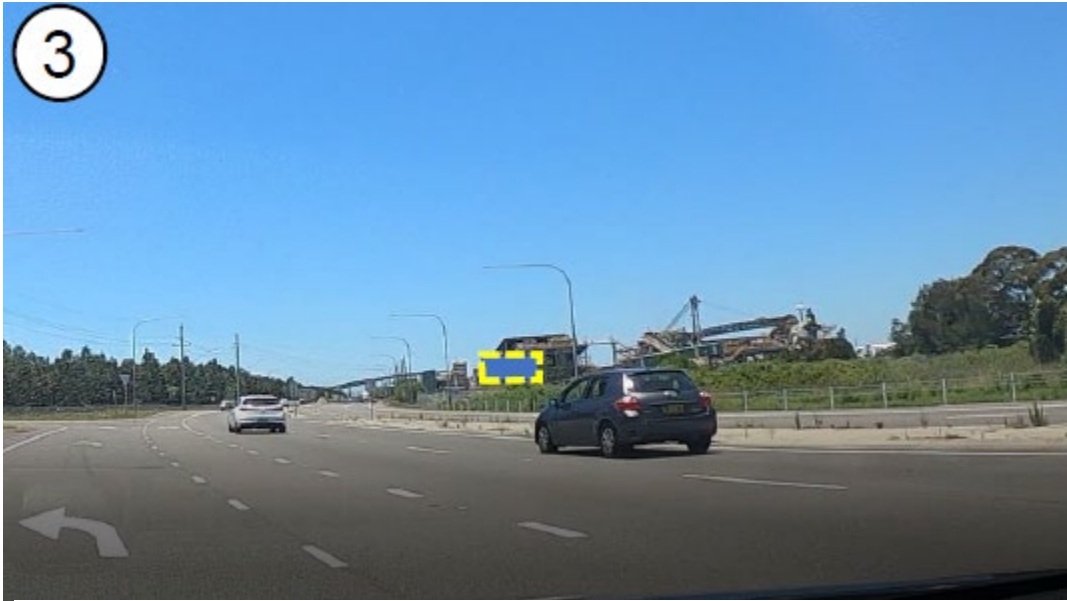
### 6.2 Site Suitability

- 6.2.1 The proposal seeks approval for the construction and display of a double sided 'Super 8' sign with one digital and one static sign. The eastbound advertisement (Sign 1) will comprise a static display and the westbound advertisement (Sign 2) will comprise a digital LED display.
- 6.2.2 The Department considers the site is suitable for the proposed signage for the following reasons:
- the proposed sign satisfactorily complies with the site selection criteria of *State Environmental Planning Policy (Industry & Employment) 2021*, the Guidelines and AS4282 (1997 Control of Obtrusive Effects of Outdoor Lighting). Refer to **Appendix B**;
  - the proposed sign would not adversely impact on the existing or future character of the land uses surrounding the site as the proposed sign would be integrated into an existing industrial setting with negligible to low visual impacts;
  - the location of the sign adjacent to a roadway corridor is suitable for digital advertising and consistent with signage on other classified roads; and
  - the proposed signage would be in a location where there is no current digital advertising signage.
- 6.2.3 The Department is therefore satisfied the location of the site is suitable and would not result in adverse amenity impacts to the surrounding environment.

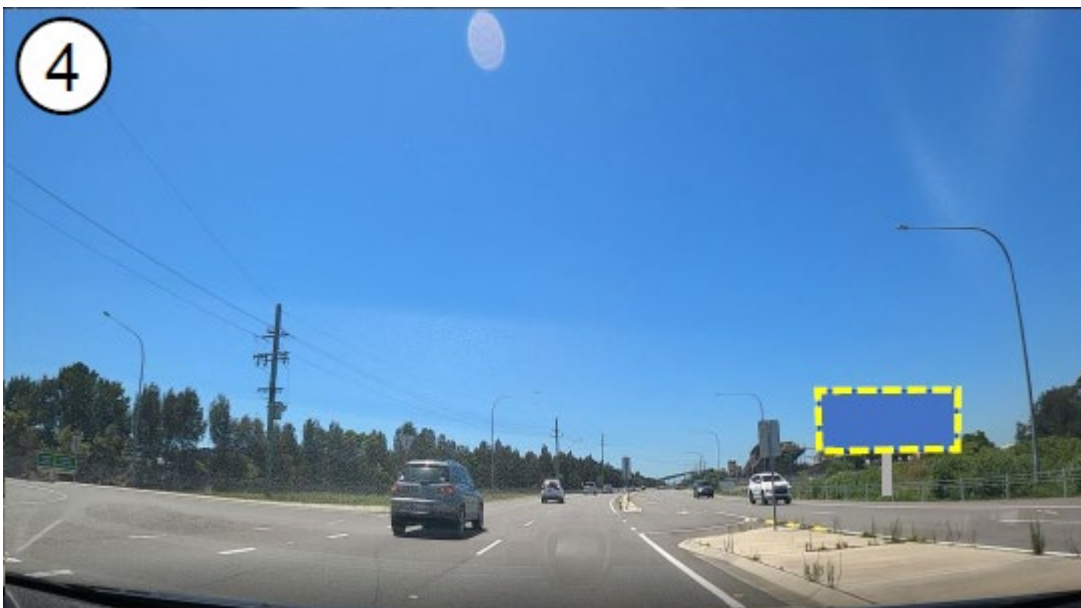
### 6.3 Visual and Illumination Impacts

#### Visual Impacts

- 6.3.1 The proposal included photomontages of the site's surrounding environment showing the height, bulk and scale of the proposal in the context of the surrounding environment including in the context of streetlights, infrastructure and topography (**Figure 6** and **Figure 7**). The Applicant states the proposed signage is consistent with the bulk and scale of the existing infrastructure within the roadway corridor including the streetlights and powerlines and therefore will not dominate the skyline.



**Figure 5 |** Cormorant Road Eastbound Approach Lane 1 (Day) Photomontage (Source: Applicant's documentation)



**Figure 6 |** Cormorant Road Eastbound Approach Lane 3 (Day) Photomontage (Source: Applicant's documentation)

- 6.3.2 Council raised concerns regarding visual impacts of the proposed signage and the potential for the signage to dominate the skyline, as well as illumination impacts requiring appropriate conditions of consent.
- 6.3.3 In response, the Applicant's RtS stated that having regard to the Clause 3 Views and Vistas assessment criteria specified in Schedule 5 of the Industry and Employment SEPP, the proposal does not dominate

the skyline or reduce the quality of vistas. The RtS also noted that the visual impacts of the proposal had been considered in the SEE.

6.3.4 The Department has reviewed the proposal and considers the proposed signage is acceptable in regard to visual impacts as:

- the surrounding context of the proposed signage is zoned as SP1 Special Activities and is an existing area of industrial land use which includes the Newcastle Coal Infrastructure Group Wharf Facility to the east and predominantly vacant land immediately surrounding the proposed signage;
- the sign is characteristic of the urban context of the surrounding area;
- the sign is proposed to be located adjacent to the existing roadway corridor;
- the proposed signage is not in proximity to any residential areas or public open spaces;
- the proposed signage's bulk and scale will integrate with the existing infrastructure including streetlights and powerlines; and
- the sign would not obscure or compromise important views, would not dominate the skyline or reduce the quality of vistas of any environmentally sensitive areas, heritage areas or open space (a full assessment of the signage under the Industry and Employment SEPP is included at **Appendix B**).

### **Illumination**

6.3.5 The proposed digital signage includes the eastbound advertisement (Sign 1) comprising a static display and the westbound advertisement (Sign 2) comprising a digital LED display.

6.3.6 Sign 1 will be externally illuminated using two top mounted 120W LED flood lights mounted on a 2 metre outreach arm aimed towards the face of the sign. Sign 2 will be internally illuminated using LEDs installed within the front face of the sign.

6.3.7 A Lighting Impact Assessment (LIA) was provided with the development application to assess the proposal against the relevant luminance criteria. The LIA confirmed the proposed signage would comply with the Industry and Employment SEPP, the Guidelines and Australian Standard 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.

6.3.8 Under the Guidelines, the LIA categorised the site as 'Zone 3'. This zone is assigned to areas of generally medium off-street ambient lighting. In this zone, the Guidelines stipulate a maximum luminance level of digital signage of 350 cd/sqm during night-time, 700 cd/sqm during morning and evening twilight and inclement weather and 6000 cd/sqm during daylight. The proposed luminance for the signs is as follows.

**Table 2 | Proposed Luminance Levels for the Proposed Signage**

Lighting Conditions	Maximum Zone 3 Luminance Limits (cd/sqm)	Sign 1 (Static) (cd/sqm)	Sign 2 (Digital) (cd/sqm)
Full sun on face of signage	Maximum output	0	6000
Day-time	6000	0	6000
Morning/evening and inclement weather	700	0	700
Night time	350 for digital sign 200 for static sign	200	350

6.3.9 Council provided comments requesting that appropriate conditions were placed to ensure illumination impacts were reduced. In response in the RtS, the Applicant noted that the consent authority may specify conditions in relation to lighting and luminance levels of the proposed signage.

6.3.10 The Department considers that the Applicant's proposed illumination levels are acceptable as the proposal is compliant with the Guidelines, has demonstrated compliance with the relevant Australian Standards and would not result in any adverse illumination impacts. To ensure the signs operate within acceptable illumination levels, the Department has recommended conditions to ensure the signs operate within the limits outlined in **Table 2**.

## 6.4 Road Safety

6.4.1 The Applicant provided a Traffic Assessment for both the static and digital signs that assessed the proposal against the Guidelines, SEPP 64 (now consolidated within the Industry and Employment SEPP) and TfNSW Advertising Sign Safety Assessment Matrix. The Traffic Assessment assessed the signage exposure distance, sight stopping distance and road accident history in proximity to the sight.

### Static Sign (Sign 1)

6.4.2 The static sign is proposed to face north-west towards eastbound drivers on Cormorant Road and will be visible from Lanes 1 to 3 of the road.

6.4.3 The Traffic Assessment assessed the crash history of the approach to Sign 1. In the period between 2016 to 2020, there were no reported crashes within the viewable area of Sign 1.

6.4.4 The Traffic Assessment identifies the static sign will be visible approximately 300 metres west of the proposed sign with a minimum duration of visibility of 17 seconds. The assessment concludes that the



proposed signage would not impact on the intersection at Cormorant Road and the Kooragang Rail Depot Access Road as drivers have adequate time to make their lane decision prior to being in close proximity of the sign as seen in **Figure 8**.



**Figure 7 |** Vehicle sight lines along Cormorant Road eastbound approaching Sign 1 (Source: Applicant's documentation)

#### Digital Sign (Sign 2)

- 6.4.5 The digital sign is proposed to face eastwards towards westbound drivers on Cormorant Road and will be visible from Lanes 1 to 3 of the road. Lanes 1 and 2 are westbound through traffic lanes and Lane 3 is a long right turn lane for turns into Kooragang Rail Depot access.
- 6.4.6 The Traffic Assessment assessed the crash history of the approach to Sign 2. In the period between 2016 to 2020, there was only one reported crash resulting in moderate injury at the intersection between Cormorant Road and the Kooragang Rail Depot Access. Since this accident, Cormorant Road has been upgraded from a two lane undivided carriageway to a four-lane divided carriageway.



6.4.7 The Traffic Assessment identifies that the digital sign will be visible approximately 400 metres east of the proposed sign with a minimum duration of visibility of 15 seconds. The assessment concludes that the proposed signage would not impact on the intersection at Kooragang Rail Depot Access Road as drivers have adequate time to make their lane decision prior to viewing the signage and also adequate time to choose to turn right at the intersection after the signage becomes out of sight as seen in **Figure 9**.



**Figure 8 |** Vehicle sightlines along Cormorant Road westbound approaching Sign 2 (Source: Applicant's documentation)

#### Dwell Time

6.4.8 The sign posted speed limit of Cormorant Road is 80 km/h. The dwell time criteria for digital signs in areas where the speed limit is 80 km/h or over is 25 seconds, as per the Guidelines. The proposal includes a 25 second dwell time with a transition of no more than 0.1 seconds for Sign 2. The

Department is satisfied that a 25 second dwell time is appropriate for the context of Cormorant Road and is consistent with the Guidelines.

## Assessment

6.4.9 The Department notes the submitted Traffic Assessments and considers the proposed signage is acceptable in regard to road safety as the proposed signage:

- would not reduce existing driver sightlines;
- would not interfere or obstruct views to traffic signals;
- would display static images only;
- would comply with the dwell times outlined in Guidelines; and
- is positioned within the road corridor and not overhanging the road.

6.4.10 The Department has also recommended a suite of conditions that will ensure the signage does not contain or use any method of illumination that distracts or dazzles drivers, ensure compliance with the 25 second dwell time and 0.1 second transition time, and compliance with the Guidelines.

6.4.11 Subject to the recommended conditions, the Department is satisfied the proposal complies with the Guidelines and concludes the proposed signage would not have a negative impact on road safety.

## 6.5 Public Benefit

6.5.1 The Guidelines require proposals for certain outdoor advertisements on classified roads and bridges to meet a public benefit test to ensure that the advertising would result in a positive gain or benefit for the local community.

6.5.2 In response to a request for further information from the Department, within the Response to Submissions, the Applicant provided information regarding public benefit of the proposal. The Applicant advised that the proposed development would be used primarily to display third party advertising. However, the advertisement structure may be used for the promotion of community programs, events, public safety programs or other appropriate public purposes.

6.5.3 The Applicant proposed that 5% of display time of the digital sign could be allocated to the City of Newcastle Council for public purposes to further provide public benefit. The Department has included this a recommended condition of consent.

6.5.4 The Department is satisfied that the proposal would result in sufficient public benefits as it would be used for community and Council purposes for at least 5% of display time. The Department has recommended a condition requiring that Council be provided a minimum of 5% of the display time, at no cost to Council, for advertising community events or Council information.

## 6.6 Other issues

6.6.1 The Department's assessment of other issues is provided in **Table 3**.

**Table 3 | Other Issues**

Issue	Findings	Recommendations
<b>Subject Land</b>	<p>Council advised that their records indicated the proposal was located at 150 Cormorant Road, rather than 30 Cormorant Road, Kooragang.</p> <p>In the RtS, the Applicant advised that at the time of submission of the DA the subject site (Lot 33 DP 1184229) was identified as 30 Cormorant Road, Kooragang on the NSW Government ePlanning Spatial Viewer.</p> <p>The Department is satisfied that all components of the development application have been assessed on the correct subject site (Lot 33 DP 1184299) and the approval will relate to this lot. Further, the plan associated with the proposal which will identify the correct location as Lot 33 DP 1184299.</p> <p>The Department has updated this assessment report and the draft consent to refer to 150 Cormorant Road, Kooragang.</p>	<p>The consent will be tied to Lot 33 DP 1184299 and not a street address.</p> <p>The consent has been updated to reflect 150 Cormorant Road, Kooragang.</p> <p>No conditions are required.</p>
<b>Consent Authority</b>	<p>Council raised concerns regarding the correct consent authority for the application.</p> <p>The Applicant's RtS noted the Department's advice that the Minister for Planning was the consent authority for the proposal however that the IPC would determine the proposal as a delegate of the Minister due to a disclosure of political donations.</p> <p>In response, Council advised the RtS has addressed the matter.</p>	<p>The consent authority for the application is the Minister for Planning.</p> <p>No conditions are required.</p>
<b>Contamination</b>	<p>The Applicant provided a Geotechnical Report that outlined that there is potential acid sulfate soils (PASS) present within the area. Further, the report outlines that contamination on site is below the health and ecological assessment criteria for commercial/industrial land uses.</p> <p>Council recommended that the appropriate conditions are imposed regarding the findings of the Geotechnical Report.</p>	<p>The Department has recommended conditions of consent to mitigate contamination impacts including an Unexpected Finds Protocol and requirements for excavated soils to be stored away from sensitive receptors such as</p>

The Department notes that the Geotechnical Report recommends:

- preparation of an Acid Sulfate Soils Management Plan to direct the storage, handling and treatment of any excavated soil material
- that the stockpile soils are away from sensitive receptors such as waterways
- further testing prior to disposal of soils off site.

The Department has recommended these as conditions of consent.

The Department is satisfied that the level of contamination is below the health and ecological assessment criteria.

waterways, further soil testing and the preparation of an Acid Sulfate Soils Management Plan.

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#### **Development Contributions**

Council raised that development contributions would be payable for the development. The Newcastle Section 7.12 Contributions Plan outlines that a 1% levy of development costs is applicable for developments more than \$200,000. The proposal is for \$521,802.31 and therefore the 1% levy applies.

The Applicant contends that Subclause 1 of the Section 7.12 Development Contributions Plan, states that Council will provide an exemption from contributions required by the Plan for types of development listed in the subclause. The Applicant contends that this list is not intended to be exhaustive and as such, the Ministerial Direction referenced to grant such exemptions applies to the project.

The Department notes that this Ministerial Direction only applies to development where Council is the determining authority. As such, Council's Section 7.12 Development Contribution Plan is applicable for the development.

The Department also notes that other development within the Lease Area, which were determined by the Minister for Planning, have had development contribution requirements imposed as a condition of consent such as DA 110646 Raven Street Warehouse and Distribution Centre, and DA 10689 46 Fitzroy Street, Carrington. Council also noted DA 10689 in their comments on the

The Department has recommended a condition of consent for payment of development contributions to Council.

RtS as an example of the precedent set by the Department for the imposition of contributions conditions.

The Department has included a recommended condition of consent for the Applicant to pay a 1% levy for development contributions.

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**Structural Feasibility**

The Department requested a Structural Feasibility Statement, prepared by a suitably qualified expert, be provided which assesses the structural feasibility of the proposed signage and supporting structure and assesses the wind loading for the site.

The Department has recommended conditions of consent including wind loading requirements and structural adequacy.

The Applicant provided Structural Feasibility Calculations and a Structural Statement, prepared by Arcadis, in the RtS.

The Structural Statement advised that the proposed advertising signage structure:

- founded on reinforced concrete bored piles and pile cap would be structurally adequate
- would comply with the requirements of AS 1170.1 – SAA Loading Code, Part 1: Dead and live loads and load combinations and AS 1170.1 – Structural design actions, Part 2: Wind actions.

The Department has recommended a suite of conditions relating to structural integrity and compliance with these standards to ensure the structural safety of the proposed signage structure. The recommended conditions also require the detailed design of the foundation be prepared with consideration to the recommendations of the Structural Feasibility Statement and Geotechnical Report, and that a copy of the detailed design approved by the Certifier be provided to the Secretary for information.

The Department is satisfied that, subject to the recommended conditions, the proposal is structurally safe.

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**Aboriginal Cultural Heritage**

Council provided comments recommending an appropriate advisory condition be imposed on any consent granted requiring unexpected finds of Aboriginal objects.

The Department has recommended a condition of consent for an Unexpected Finds Protocol.



The Department notes that the proposed development is not in proximity to any mapped items of Aboriginal cultural heritage and has included a recommended condition requiring an Unexpected Finds Protocol.

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## 7 Evaluation

- 7.1.1 The Department's assessment of the application has considered all relevant matters under Section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has considered the development on its merits, taking into consideration strategic plans that guide development in the area, the EPIs that apply to the development and advice received from the relevant public authorities, including Council.
- 7.1.2 No objections from State government agencies or Council to the development have been received and the Department has sought to address any issues raised in consultation with Council, TfNSW and the Applicant.
- 7.1.3 The Department's assessment of the development identified site suitability, visual impact, illumination, road safety and public benefit as the key issues for consideration.
- 7.1.4 Overall, the Department considers the proposal is acceptable for the following reasons:
- the proposal is consistent with the objectives of the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Port Master Plan 2040 and the Newcastle Local Strategic Planning Statement;
  - the height and scale of the proposal appropriately relates to the existing site context and surrounding features and would not result in any unreasonable amenity impacts;
  - it would not result in any significant traffic or safety impacts;
  - the proposed illumination levels are acceptable as the proposal is compliant with the Guidelines, has demonstrated compliance with the relevant Australian Standards and would not result in any adverse illumination impacts;
  - the proposal would result in sufficient public benefits as it would be used for community and Council purposes for at least 5% of display time; and
  - all other issues have been appropriately addressed by recommended conditions of approval.
- 7.1.5 Following on from its assessment of the development, the Department considers the development is approvable, subject to conditions of consent. This assessment report is hereby presented to the Independent Planning Commission for determination.

**Endorsed by:**



**Anthea Sargeant**  
Executive Director  
Key Sites and Regional Assessments

**Endorsed by:**



**David Gainsford**  
Deputy Secretary  
Development Assessment

# Appendices

## Appendix A – List of Documents

The following supporting documents and supporting information to this assessment report can be found on the NSW Planning Portal as follows:

### Application and RtS Report

<https://www.planningportal.nsw.gov.au/daex/exhibition/digital-advertising-signage-30-cormorant-road-kooragang-da-228565>

### Submissions

<https://www.planningportal.nsw.gov.au/daex/exhibition/digital-advertising-signage-30-cormorant-road-kooragang-da-228565>



## Appendix B – Statutory Considerations

In line with the requirements of section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the Department's assessment of the proposal has included detailed consideration of a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act; and
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all of these matters in its assessment and has provided a summary in **Table 4** and **Table 5** below.

**Table 4 | Considerations Against the Objects of the EP&A Act**

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal seeks to maximise the use of the site. The proposal would not adversely impact on the State's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The Department has considered ecologically sustainable development (ESD) in its assessment of the development (see <b>Section 4.4</b> ). The Department is satisfied the development can be carried out in a manner that is consistent with the principles of ESD.
(c) to promote the orderly and economic use and development of land,	The proposal involves the orderly and economic use of land through the utilisation of land adjacent to a major road corridor.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities,	The Department considers the proposal would not result in unacceptable environmental impacts.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	No impacts to built and cultural heritage have been identified due to the historical disturbance of the site and locality.
(g) to promote good design and amenity of the built environment,	The Department considers the proposal would not result in unacceptable built form impacts.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal is not for an occupiable building.

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department referred the development to relevant government agencies and Council during the exhibition period and invited them to comment. The Department has given due consideration to their advice.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department exhibited the application as outlined in <b>Section 4</b> .

**Table 5 | Matters for Consideration under Section 4.15 of the EP&A Act**

Matter	Consideration
a) the provisions of: <ul style="list-style-type: none"> <li>i.) any environmental planning instrument, and</li> </ul>	The Department has considered the relevant environmental planning instruments in its assessment of the development. Details of the assessment is provided further below in <b>Appendix B</b> .
<ul style="list-style-type: none"> <li>ii.) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</li> </ul>	The Department has considered the relevant draft environmental planning instruments in its assessment of the development. Details of the assessment is provided in <b>Appendix B</b> .
<ul style="list-style-type: none"> <li>iii.) any development control plan, and</li> </ul>	The Newcastle Development Control Plan 2012 (NDCP) does not apply to the site in accordance with Section 1.00 of the NDCP as the site is located within the PON lease area.
<ul style="list-style-type: none"> <li>iii.) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</li> </ul>	The Applicant has not entered into a planning agreement under Section 7.4 of the EP&A Act.
<ul style="list-style-type: none"> <li>iv.) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,</li> </ul>	The Department has assessed the development in accordance with all relevant matters prescribed by the regulations, the findings of which are contained in this report.
b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development in detail in <b>Section 6</b> of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
c) the suitability of the site for the development,	The development is permissible with consent and the site is suitable for occupation by the development as it is located on land zoned SP1 Special Uses and does not adversely impact on surrounding uses.

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d) any submissions made in accordance with this Act or the regulations,

All matters raised in submissions have been summarised in **Section 5** of this report and given due consideration as part of the assessment of the development in **Section 6** of this report.

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e) the public interest.

The Department considers the proposal to be in the public interest (refer to **Section 6**).

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## Environmental Planning Instruments

To satisfy the requirements of Section 4.15(1) of the EP&A Act, the following EPIs were considered as part of the Department's assessment:

- State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP)
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
- State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)
- Newcastle Development Control Plan 2012

### State Environmental Planning Policy (Industry & Employment) 2021

Industry and Employment SEPP applies to all signage that can be displayed with or without development consent and is visible from any public place or public reserve. The proposal has been assessed against the assessment criteria of Schedule 5 in **Table 6** below.

**Table 6 | Consideration of Schedule 5 of SEPP (I&E) 2021**

Assessment criteria	Department's consideration	Compliance
<b>1 Character of the area</b>		
Is the development compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is located within the Port of Newcastle and is considered compatible with the surrounding character of the site.	Yes
Is the development consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with other signs associated with other major roads.	Yes
<b>2 Special areas</b>		
Does the development detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage is not located within, nor detracts from, any environmental sensitive, natural, conservation, open space, waterways, rural landscapes or residential areas.	Yes

<b>3 Views and vistas</b>		
Does the development: <ul style="list-style-type: none"> <li>obscure or compromise important views?</li> <li>dominate the skyline and reduce the quality of vistas?</li> <li>respect the viewing rights of other advertisers?</li> </ul>	The proposed signage: <ul style="list-style-type: none"> <li>will not obscure any views, including important views.</li> <li>does not dominate the existing skyline</li> <li>will not disturb the viewing rights of other advertisers in the vicinity.</li> </ul>	Yes
<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the development appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the setting of the proposed development as discussed in Section 6.2.	Yes
Does the development contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage will contribute to the visual interest of the setting by incorporating digital advertising on Cormorant Road as the road does not currently include any advertising signage.	Yes
Does the development reduce clutter by simplifying existing advertising?	The site does not contain any existing advertising.	N/A
Does the development screen unsightliness?	The proposed signage does not screen unsightliness as there is no unsightliness surrounding the proposal. The proposal integrates within the existing character of infrastructure including streetlights.	N/A
Does the development protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is not located in the vicinity of any existing buildings, or tree canopies. The proposed signage does not protrude above the existing lighting and electricity infrastructure in the locality.	Yes
Does the development require ongoing vegetation management?	The proposed signage does not require any ongoing vegetation management.	N/A
<b>5 Site and building</b>		
Is the development compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale of the proposal is appropriate for the context of the site and is consistent with the character of the area. The proposal is consistent with the scale of surrounding infrastructure including street lights and surrounding vegetation.	Yes
Does the development respect important features of the site or building, or both?	The proposed signage will not detract from the important features of the site.	Yes
Does the development show innovation and imagination in its relationship to the site or building, or both?	The proposed signage appropriately relates to the site as it does not overhang the road and integrates within the existing infrastructure of the road including the streetlights.	Yes

## 6 Associated devices and logos with advertisements and advertising structures

Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Logos and safety devices will be included in the detailed design to be addressed by a future contractor. The Department has recommended conditions to ensure this is done in accordance with the requirements in SEPP (I&E) 2021 and the Guidelines, including in relation to the location and size of the logo.	Yes
<b>7 Illumination</b>		
Would illumination: result in unacceptable glare? affect safety for pedestrians, vehicles or aircraft? detract from the amenity of any residence or other form of accommodation. Can the intensity of the illumination be adjusted? Is the illumination subject to a curfew?	The Department considers that the proposed illumination: <ul style="list-style-type: none"> <li>• complies with the Guidelines</li> <li>• is contained within the screening</li> <li>• would not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft,</li> <li>• would not detract from the amenity of any residents.</li> </ul> <b>Section 6</b> of this report assesses the illumination impacts of the signage.	Yes
<b>8 Safety</b>		
Would the development reduce safety for: <ul style="list-style-type: none"> <li>• pedestrians, particularly children, by obscuring sightlines from public areas?</li> <li>• for any public road?</li> <li>• pedestrians or bicyclists?</li> </ul>	The Department considers that the signage: <ul style="list-style-type: none"> <li>• will not reduce the safety for any public road or pedestrians or cyclists.</li> <li>• will not obscure any sightlines, and therefore is not considered to reduce the safety of pedestrians.</li> </ul> <b>Section 6</b> of this report assesses the road safety impacts of the signage.	Yes

## Transport Corridor Outdoor Advertising and Signage Guidelines

The Transport Corridor Outdoor Advertising and Signage Guidelines outline best practice for the planning and design of outdoor advertisements in transport corridors. The Guidelines supplement the provisions of SEPP (I&E) 2021 by providing detailed information in relation to signage within transport corridors, including design criteria and road safety considerations. The proposal has been assessed against the Guidelines in **Table 7**.

**Table 7 | Assessment against Guidelines**

Assessment Criteria	Comments	Compliance
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**Land Use Compatibility Criteria – Table 1**

Assessment Criteria	Comments	Compliance
i. The use of outdoor advertising in a given locality should not be inconsistent with the land use objectives for the area outlined in the relevant LEP.	The proposal is consistent with the objectives of the zoned SP1 Special Activities under the Transport and Infrastructure SEPP. 'Advertisement' and 'Advertising Structure' are permitted uses in this zone.	Yes
ii. Advertisements must not be placed on land where signage is visible from the following areas if it is likely to create significant amenity impacts: <ul style="list-style-type: none"> <li>• Environmentally sensitive area</li> <li>• Heritage area</li> <li>• Natural or other conservation area</li> <li>• Open space</li> <li>• Waterway</li> <li>• Residential</li> <li>• Scenic protection area</li> <li>• National park or nature reserve.</li> </ul>	The proposed digital signs would not create adverse amenity impacts on any environmentally significant area, heritage area, natural/other conservation areas, open space area, waterway, residential area, scenic protection area, national park or nature reserve.  <b>Section 6 and Appendix B</b> of this report assesses the impacts of the signage.	Yes
iii. Advertising structures should not be located so as to dominate or protrude significantly above the skyline or to obscure or compromise significant scenic views or views that add to the character of the area.	The sign would be located on a major roadway integrated within the existing electricity and lighting infrastructure, and would not obscure any significant views.	Yes
iv. Advertising signage should not be located to diminish the heritage values of items or areas of local, regional or state heritage significance.	The site is not in the proximity of any heritage items or areas of significance.	Yes
v. Where possible, advertising structures should be placed within the context of other built structures in preference to non-built areas. Where possible, signage should be used to enhance the visual landscape. For example, signs may be positioned adjacent to, or screening, unsightly aspects of a landscape, industrial sites or infrastructure such as railway lines or power lines.	The proposed sign is consistent within the context of Cormorant Road and the existing road corridor.	Yes

## 2.5 Site Specific and Structural Criteria

### 2.5.1 General Criteria

Assessment Criteria	Comments	Compliance
(a) The advertising structure should demonstrate design excellence and show innovation in its relationship to the site, building or bridge structure.	The proposed sign is of a contemporary design standard that is suitable for the road corridor.	Yes
(b) The advertising structure should be compatible with the scale, proportion, and other characteristics of the site, building or structure on which the proposed signage to be located.	The proposed sign is compatible with the scale of the road corridor on which the proposed signage will be located.	Yes
(c) The advertising signage should be in keeping with important features of the site, building or bridge structure.	The advertising signage is in keeping with the important industrial features of the site and surrounding area.	Yes
(d) The placement of the advertising signage should not require the removal of significant trees or other native vegetation.	The proposal does not require the removal of any vegetation. Conditions of consent have been recommended to ensure the protection of existing vegetation.	Yes
(e) The advertisement proposal should incorporate landscaping that complements the advertising signage and is in keeping with the landscape and character of the transport corridor.	While the proposed sign will not incorporate landscaping it will continue to be in character of the transport corridor. The corridor includes existing vegetation on the sides of the roadway and the proposal will be located alongside this vegetation. The proposal does not seek to remove any vegetation.	Considered acceptable – see comments
(f) Any safety devices, platforms, lighting devices or logos should be designed as an integral part of the signage or structure on which it is to be displayed.	Logos and safety devices will be included in the detailed design to be addressed by a future contractor. The Department has recommended conditions to ensure this is done in accordance with the requirements in SEPP (I&E) 2021 and the Guidelines.	Yes
(g) Illumination of advertisements must comply with the requirement in Section 3.3.3 in the Guidelines.	The illumination of the advertising signage does not result in	Yes



Assessment Criteria	Comments	Compliance
	unacceptable light spill (refer to <b>Section 6</b> of this report).	
(h) Illumination of advertisements must not cause light spillage into nearby residential properties, national parks or nature reserves.	The proposal is not in proximity to any residential properties, national parks or nature reserves.	Yes

#### 2.5.4 Freestanding advertisements criteria

(i) The advertising structure must not protrude above the dominant skyline, including any buildings, infrastructure or tree canopies, when viewed from ground level within a visual catchment of 1km. Note: This impact should be measured from the vehicle approach location and any other critical viewpoints.	The proposed signage does not dominate or protrude above the existing skyline and is consistent with the scale of the surrounding development including streetlights and electricity infrastructure.	Yes
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#### Digital sign criteria – Table 3

(a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The proposal is for the display of static digital advertisements (Sign 2) with a dwell time of 25 seconds in accordance with criterion (d) below. Sign 1 will be a static sign.	Yes
(b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	The proposed signs are not seeking consent for message sequencing. This is included as a recommended condition of consent.	Yes
(c) The image must not be capable of being mistaken: (j) For a prescribed traffic control (ii) device as text providing driving instructions to drivers.	The proposed digital signage would not be capable of being mistaken for a prescribed traffic control device and/or text providing driving instructions. This is included as a recommended condition of consent.	Yes
(d) Dwell times for image display are: i. 10 seconds for areas where the speed limit is below 80km/h; and ii. 25 seconds for areas where the speed limit is 80km/h and over.	A 25 second dwell time is proposed, as the speed limit on Cormorant Road is 80km/h. A condition of consent requiring a 25 second dwell time has been included as a recommended condition of consent.	Yes

Assessment Criteria		Comments	Compliance																		
(e)	The transition time between messages must be no longer than 0.1 seconds, and in the event of image failure, the default image must be a black screen.	The proposed transition time between messages is 0.1 second. This is included as a recommended condition.	Yes																		
(f)		Luminance levels comply with the following requirements:	Yes																		
<table><tr><th>Lighting Conditions</th><th>Maximum Zone 3 Luminance Levels</th><th>Proposed Sign 1 (Static) (cd/sqm)</th><th>Proposed Sign 2 (Digital) (cd/sqm)</th></tr><tr><td>Full sun on face of signage</td><td>Maximum output</td><td>0</td><td>6000</td></tr><tr><td>Day-time</td><td>6000</td><td>0</td><td>6000</td></tr><tr><td>Morning/evening and inclement weather</td><td>700</td><td>0</td><td>700</td></tr><tr><td>Night time</td><td>350 for digital sign 200 for static sign</td><td>200</td><td>350</td></tr></table> <p>The proposed digital sign would operate in accordance with the proposed luminance levels of Zone 3 (refer to <b>Section 6</b> of this report) and would comply with the luminance criteria.</p>		Lighting Conditions		Maximum Zone 3 Luminance Levels	Proposed Sign 1 (Static) (cd/sqm)	Proposed Sign 2 (Digital) (cd/sqm)	Full sun on face of signage	Maximum output	0	6000	Day-time	6000	0	6000	Morning/evening and inclement weather	700	0	700	Night time	350 for digital sign 200 for static sign	200
Lighting Conditions	Maximum Zone 3 Luminance Levels	Proposed Sign 1 (Static) (cd/sqm)	Proposed Sign 2 (Digital) (cd/sqm)																		
Full sun on face of signage	Maximum output	0	6000																		
Day-time	6000	0	6000																		
Morning/evening and inclement weather	700	0	700																		
Night time	350 for digital sign 200 for static sign	200	350																		
(g)	The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	The images would not dazzle or distract drivers.  A condition of consent is recommended to ensure that the signs images comply with requirements to not contain flickering or flashing content.	Yes																		
(h)	The amount of text and information supplied on a sign should be kept to a minimum. Text should preferably be displayed in the same font and size.	The advertisements would primarily display images with information/text kept to a minimum.  A condition of consent is recommended to ensure that text and information is kept to a minimum.	Yes																		
(i)	Any sign that is within 250 m of a classified road and is visible from a school zone must be switched to fixed display during school zone hours.	A condition of consent is not required as the sign is not visible from a school zone.	N/A																		

Assessment Criteria	Comments	Compliance
(j) Each sign must be assessed on a case by case basis, including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The Department has undertaken detailed assessment of the design and location of the proposal (refer to <b>Section 6</b> of this report).	Yes
(k) At any time, including where the speed limit in the areas of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	TfNSW (previously RMS) may reassess the signs if road safety circumstances change and increase the dwell time or remove the signs, as appropriate. The Minister's approval would be required for any reduction in dwell time.	Yes

#### Road Safety Assessment Criteria

##### 3.2.1 Road clearance

(a) The advertisement must not create a physical obstruction or hazard.	The proposed signs would not result in any physical obstruction or hazard.	Yes
(b) Where the sign supports are not frangible (breakable), the sign must be placed outside the clear zone. Where a sign is proposed within the clear zone but behind an existing RTA-approved crash barrier, all its structures up to 5.3m in height (relative to the road level) are to comply with lateral clearances as specified by Section 6 of the RTA's Road Design Guide with respects to dynamic deflection and working width.	The proposed signs are not located within a clear zone.	N/A
(c) All signs that are permitted to hang over roads or footpaths should meet wind loading requirements as specified in AS 1170.1 and AS1170.2. All vertical clearances as specified above are regarded as being the height of the sign when under maximum vertical deflection.	The proposed works would not overhang the roadway or footpath.	Yes

#### Additional road clearance criteria for digital signs

Assessment Criteria	Comments	Compliance
Digital signs greater than 20 m <sup>2</sup> must ensure a minimum clearance of 5.5 m from the lowest point of the sign.	The proposed sign is not greater than 20m <sup>2</sup> .	N/A

### 3.2.2 Line of Sight

(a) An advertisement must not obstruct the driver's view of the road particularly of other vehicles, bicycle riders or pedestrians at crossings.	The proposed digital signage will not obstruct views as it is not located overhanging the roadway.	Yes
(b) An advertisement must not obstruct a pedestrian or cyclist's view of the road.	The proposed digital signage is not located near a pedestrian path or cycleway.	Yes
(c) The advertisement should not be located in a position that has the potential to give incorrect information on the alignment of the road.	The proposal will not give incorrect information on the alignment of the road as it does not overhang the road and will not display road information.	Yes
(d) The advertisement should not distract a driver away from the road environment for an extended length of time.	The proposed signs would not distract drivers as they are visible upon approach of between 300m and 400m and will not require the drivers to direct their attention away from the road. Additionally, the digital sign would have a dwell time of 25 seconds.	Yes

### 3.2.3 Proximity to decision making points and conflict points

(a) The sign should not be located: <ul style="list-style-type: none"> <li>i. less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves</li> <li>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</li> <li>iii. so that it is visible from the stem of a T-intersection.</li> </ul>	The proposed signage would comply with the road safety requirements (refer to <b>Section 6</b> of this report).	Yes
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Assessment Criteria	Comments	Compliance
<p>(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:</p> <ul style="list-style-type: none"> <li>i. of a road hazard</li> <li>ii. to an intersection</li> <li>iii. to a prescribed traffic control device (such as traffic signals, stop or give way signs or warning signs)</li> <li>iv. to an emergency vehicle access point or Type 2 driveways (wider than 6-9m) or higher.</li> </ul>	The placement of the sign will not distract drivers at critical times (refer to <b>Section 6</b> of this report).	Yes

### 3.2.4 Sign Spacing

#### Additional criteria for digital signs

(a) Sign spacing should limit drivers view to a single sign at any given time with a distance of no less than 150m between signs in any one corridor. Exemptions for low speed, high pedestrian zones or CBD zones will be assessed by RMS as part of their concurrence role.	The sign is not located within 150m of any other signs.	Yes
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### 3.3.1 Advertising signage and traffic control devices

(a) The advertisement must not distract a driver from, obstruct or reduce the visibility and effectiveness of, directional signs, traffic signals, prescribed traffic control devices, regulatory signs or advisory signs or obscure information about the road alignment.	The proposal will not distract drivers or reduce the visibility and effectiveness of directional signs, traffic signals, traffic control devices, regulatory signs or advisory signs or obscure information about the road alignment as the signage does not overhang the roadway and is not located in proximity to any signals or devices.	Yes
(b) The advertisement must not interfere with stopping sight distance for the road's design speed or the effectiveness of a traffic control device.	The proposal is not in proximity to any decision making points where safe stopping distances would be required.	Yes

Assessment Criteria	Comments	Compliance
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#### Additional criteria for digital signs and moving signs

<p>(a) The image must not be capable of being mistaken:</p> <ul style="list-style-type: none"> <li>i. for a rail or traffic sign or signal because it has, e.g. red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a traffic signal</li> <li>ii. as text providing driving instructions to drivers.</li> </ul>	<p>The application does not provide specific detail for sign content. Due to the nature of the signage display, the advertising content of the signs will change. Furthermore, consent is not required for a change in the content of signage in accordance with SEPP (I&amp;E) 2021. Therefore, a condition of consent is recommended to ensure the sign content is not mistaken for traffic signals or driving instructions.</p>	<p>Yes</p>
<p>(b) The amount of text and information supplied on a sign should be kept to a minimum (e.g. no more than a driver can read at a short glance).</p>	<p>The Department has included a suite of recommended conditions to ensure the content of the advertising does not include message sequencing, flickering or flashing and has a dwell time of 25 seconds.</p>	<p>Yes</p>

#### 3.3.2 Dwell time and transition time

##### Digital signs

<p>(a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (b) below.</p>	<p>The Department has included a recommended condition of consent requiring the advertising to be static and for a 25 second dwell time.</p>	<p>Yes</p>
<p>(b) Dwell times for image display must not be less than:</p> <ul style="list-style-type: none"> <li>i. 10 seconds for areas where the speed limit is below 80km/h.</li> <li>ii. 25 seconds for areas where the speed limit is 80km/h and over.</li> </ul>	<p>The speed limit is 80km/hr and therefore the dwell time is proposed to be 25 seconds. This has been included as a recommended condition of consent.</p>	<p>Yes</p>
<p>(c) Any digital sign that is within 250 metres of a classified road and is visible from a school zone</p>	<p>The proposal is not visible from a school zone.</p>	<p>Yes</p>

Assessment Criteria	Comments	Compliance
must be switched to a fixed display during school zone hours.		
(d) Digital signs must not contain animated or video/movie style advertising or messages including live television, satellite, Internet or similar broadcasts.	The Department has included a suite of recommended conditions to ensure the content of the advertising does not include message sequencing, flickering or flashing and does not propose video/movie style advertising.	Yes
(e) The transition time between messages must be no longer than 0.1 seconds, and in the event of image failure, the default image must be a black screen.	This has been included as a recommended condition of consent.	Yes

### 3.3.3 Illumination and reflectance

#### Non-digital signs

(a) Advertisements must comply with the luminance requirements in Table 5 below.	The proposed luminance complies with Table 5.	Yes
(b) For night time use, the sign (whether internally illuminated or lit from its exterior) must not cast a shadow on areas that were previously lit and that have a special lighting requirement, e.g. pedestrian crossings.	The proposal is not in proximity to previously lit areas such as pedestrian crossings.	N/A
(c) The light sources for illuminated signs must focus solely on the sign and: <ul style="list-style-type: none"> <li>i. be shielded so that glare does not extend beyond the sign.</li> <li>ii. with the exception of back lit neon signs, have no light source visible to passing motorists with a light output greater than that of a 15W fluorescent/LED bulb.</li> </ul>	The proposal's design includes two top mounted 120W LWD flood lights mounted on a 2 metre outreach arm aimed towards the face of the sign and therefore the glare will not extend beyond the sign.	Yes
(d) The level of reflectance of an advertisement, and its content, is not to exceed the 'Minimum coefficients of Luminous intensity per unit area for Class 2A Material', as set out in Australian	The proposal does not include flashing advertisement and the Department has included this as a recommend condition of consent. The Department has also	Yes



Assessment Criteria	Comments	Compliance
Standard AS/NZS 1906.1:2007. Flashing illuminated advertisements will not be approved.	recommended a condition requiring the advertisement comply with Australian Standard AS/NZS 1906.1:2007.	

#### Digital Signs

(a) Luminance levels must comply with the requirements in Table 6 below	The proposed luminance complies with Table 6.	Yes
(b) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	This is included as a condition of consent.	Yes

#### 3.3.4 Interaction and sequencing

(a) The advertisement must not incorporate technology which interacts with in-vehicle electronic devices or mobile devices. This includes interactive technology or technology that enables opt-in direction communication with road users.	The proposed sign does not incorporate technology that will interact with in-vehicle electronic devices or mobile devices, by condition of consent.	Yes
(b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	No message sequencing is proposed.	Yes

#### State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)

Chapter 5 of the Transport and Infrastructure SEPP includes the provision of the former State Environmental Planning Policy (Three Ports) 2007. The chapter of the SEPP aims to provide a consistent and effective planning regime for development, re- development and protection of lands within the ports of Botany, Port Kembla and Newcastle. It also specifies matters to be considered in determining to grant development consent and to ensure the land around the lease areas is maintained for port-relation and industrial land-uses.

The site is zoned SP1 Special Activities under the Transport and Infrastructure SEPP. 'Advertisement' and 'Advertising Structure' are permitted uses in this zone. The Department is satisfied the development meets the relevant objectives of the SP1 zone as discussed in **Table 8**.

**Table 8 | Consideration of SP1 Zone Objectives under Transport and Infrastructure SEPP**

Objective	Department Comments
To provide for special land uses that are not provided for in other zones.	The proposed development does not seek a special land use; however the development is proposed to be located on a small portion of Lot 153 and will not interfere with further development on the remainder of the site.
To provide for sites with special natural characteristics that are not provided for in other zones.	The site has natural characteristics being within the PONLease Area. The proposal does not interfere with the site's natural characteristics.
To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.	The proposal will facilitate development that is in keeping with the special characteristics of the site and minimises adverse impacts on surrounding land. The development is proposed to be located on a small portion of Lot 153 and will not interfere with further development on the remainder of the site.
To maximise the use of waterfront areas to accommodate port facilities and industrial, maritime industrial, freight and bulk storage premises that benefit from being located close to port facilities.	The development will not inhibit the use of the port or port related uses.
To enable the efficient movement and operation of commercial shipping and to provide for the efficient handling and distribution of freight from port areas through the provision of transport infrastructure	The development will not inhibit the efficient movement and operation of the port.
To provide for port related facilities and development that support the operations of Port Botany, Port Kembla and the Port of Newcastle.	The development will not explicitly provide port related facilities or support port operations. Notwithstanding, there may be opportunities for the remainder of the site to be developed to provide these uses.
To facilitate development that by its nature or scale requires separation from residential areas and other sensitive land uses.	The site is suitably separated from surrounding residential areas.

Objective	Department Comments
To encourage employment opportunities.	The development will create jobs during construction works.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

The Resilience and Hazards SEPP (Chapter 2) defines four coastal management areas and specifies assessment criteria that are tailored for each coastal management area. The consent authority must apply those criteria when assessing proposed developments for development that fall within one or more of the mapped areas.

The site is mapped as a coastal environment area and as a coastal use area under the Resilience and Hazards SEPP. However, clause 2.5(2) of the SEPP outlines that Chapter 2 of the SEPP does not apply to Lease Areas identified in State Environmental Planning Policy (Three Ports) 2013 (now consolidated into the Transport and Infrastructure SEPP). The site is identified as being in the PON Lease Area in the Transport and Infrastructure SEPP and therefore Chapter 2 of the Resilience and Hazards SEPP does not apply to the site.

Chapter 4 of the Resilience and Hazards SEPP contains the provisions of the former SEPP 55. The chapter aims to provide a State-wide approach to the remediation of contaminated land. In particular, it aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required
- the relevant considerations for consent to carry out remediation work
- the remediation works undertaken meet certain standards and notification requirements.

The Applicant submitted a Geotechnical Report that outlined that there is potential acid sulfate soils (PASS) present within the area. Further, the report outlines that contamination on site is below the health and ecological assessment criteria for commercial/industrial land uses.

The Department has recommended conditions to address these recommendations.

### **Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)**

The draft Remediation SEPP seeks to retain the key operational framework of the current SEPP 55, while also adding new provisions relating to changes in categorisation and introducing modern approaches to the management of contaminated land. The development has been assessed against SEPP 55 (see above), and the Department is satisfied the development would be consistent with the draft Remediation SEPP.

### **Newcastle Development Control Plan 2012**

The Newcastle DCP 2012 (NDCP) applies to land covered by the Newcastle Local Environmental Plan 2012 and to land outside of the PON Lease Area. Given that the Newcastle Local Environmental Plan 2012 (NLEP) does not apply to the site, as the site is located within the PON Lease Area, the NDCP is not a matter for consideration. However, the Department has reviewed the proposal's consistency with the aims of relevant controls within the NDCP as a guideline in this assessment.

Section 7.09 of the NDCP outlines the controls for advertising and signage. The relevant controls to this proposal are the pole or pylon sign. The Department has reviewed the proposal against the controls of this section and considers it achieves these by:

- the sign is not in proximity to a building;
- the signage is not more than 8 metres above the ground level;
- the signage does not exceed 20 m<sup>2</sup>;
- only includes one pylon on the site; and
- is contained wholly within the property boundary of the site.