



Cordelia Maxwell Williams
JC Decaux Australia Trading Pty Ltd
Level 11, 180 George Street
SYDNEY NSW 2000

D123/23
MH9 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Refusal**

Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”). Clause 87 of the Environmental Planning and Assessment Regulation 2021 (“the Regulation”)

Development Application Number: 123/23

Land to which this applies: Land adjacent to Mount Street, North Sydney

Applicant: Cordelia Maxwell Williams
JC Decaux Australia Trading Pty Ltd

Proposal: Installation and operation of a freestanding advertisement structure for the purposes of Council communication and third party advertising.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 6 December 2023. Subject to the provisions of Section 4.16 of the Environmental Planning and Assessment Act 1979, the subject application has been refused for the reasons stated below.

Date of Determination: 6 December 2023

Reason for refusal:

The Panel concurs with the reasons for refusal and considers on a merits assessment that the location of the advertising structure is not in the public interest and must be refused for the following reasons:

1. Not considered to be in the public interest or suitable for the subject site

The proposed development is not considered suitable for the subject site nor in the public

interest.

Particulars:

- a) The proposed development detracts from the significance of the adjoining heritage listed buildings and surrounding streetscape and public open space setting and is considered to be unsuitable for the subject site contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended)
- b) A total of four (4) public submissions were received against the application raising particular concerns about visual clutter; impact on heritage item significance; detracting from the character of the place; adverse impact on pedestrian movement and distracting to motorists; significant public amenity impacts; lose public amenity and undo good place-making work done in Brett Whiteley Place.
- c) The cumulative effect of the non-compliances with State and Councils controls, particularly the adverse impact on the heritage significance of the adjoining heritage items; inconsistency with the established character of Brett Whiteley Place as a community place and motorist and pedestrian safety the application is not considered to be in the public's interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

2. Failing to satisfy Chapter 3 and Schedule 5 of SEPP (Industry and Employment) 2021

The proposal is not acceptable in terms of its impacts.

Particulars:

- a) The proposal fails to be consistent with the objective of Chapter 3 Clause 3.1(1)(a)(i) of the SEPP for the following reasons:-
 - its proximity to a group of heritage items will detract from the amenity or visual quality of the heritage items in the immediate vicinity as well as the curtilage of the public artwork, and
 - the proposed advertising panel is not considered compatible with the existing or desired future character of Brett Whiteley Place / public open space.
- b) Failing to satisfy 1 Character of the area; 2 Special area; 3 Views and Vistas; 4 Streetscape setting and 5 Site and building of Schedule 5 of the Industry SEPP;
- c) Failing to satisfy 8. Safety of Schedule 5 of SEPP (Industry and Employment) 2021, as it and has the potential to distract motorists at driver decision making point and reduce the pedestrian level of service.
- d) Failing to satisfy the land use compatibility criteria and inconsistent with the characteristics of the site pursuant to the transport corridor outdoor advertising and signage guidelines

3. Failing to satisfy Clause 5.10 of the NSLEP 2013

Particulars:

- a) Out of character with the special area (group of heritage items and cultural setting) compromising the significance of the place
- b) The proposed advertising pillar will be a visual intrusion to the setting of the heritage items, drawing attention away from the heritage facades and the established character of Brett Whiteley Place as a community place.
- c) The freestanding advertising panel will render the streetscape less authentic and subject to commercialism. Advertising in the context of the heritage listed buildings will

therefore detract from the established cultural character and landscape setting of Brett Whiteley Place.

4. Inconsistent with Section 9 of NSDCP 2013

Particulars:

- a) the proposal does not satisfy the General objectives of Section 9.1 specifically O2; O3 and O7
- b) Inconsistent with Section 9.5 Location
- c) Inconsistent with Section 9.8 Pedestrian and road safety
- d) Inconsistent with Section 9.9 Signs on heritage item – impact on significance of heritage items
- e) Inconsistent with section 9.11 Specific sign type, specifically Provisions P16; P20; P24; P26 and P27

5. Inconsistent with Section 13.4 of NSDCP 2013

Particulars:

- a) The proposal is inconsistent with O1 and will detract from the streetscape setting of the group of heritage listed buildings and its setting as it will introduce visual clutter and will dilute the established character of Brett Whiteley Place.
- b) Inconsistent with Provisions P1; P4 and P5 of Section 13.4 of the NSDCP 2013.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: <https://www.northsydney.nsw.gov.au/downloads/file/2963/lpp12-land-adjacent-to-mount-street-north-sydney-da12323-rpt>)

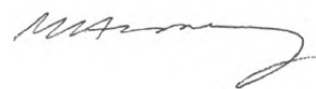
Review of determination and right of appeal:

Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

18/12/2023

DATE



Signature on behalf of consent authority
MICHAEL HORNERY
EXECUTIVE PLANNER