



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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30 September 2019

Ms Gina Metcalfe
A/ Director, Central (Western)
Greater Sydney, Place and Infrastructure
Department of Planning, Industry and Environment
Level 4, 10 Valentine Avenue
PARRAMATTA NSW 2150

Our Ref: 1/2020/PLP

Dear Ms Metcalfe

PLANNING PROPOSAL SECTION 3.34 NOTIFICATION

Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – to introduce exempt development criteria for advertising on public infrastructure including bus shelters, seats, street signs and bridges

Pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), it is advised that Council has resolved to prepare a planning proposal for the above amendment.

Please find enclosed the information required in accordance with the guidelines 'A guide to preparing planning proposals' issued under Section 3.33(3) of the EP&A Act. The planning proposal and supporting materials is enclosed with this letter for your consideration.

Following receipt by Council of the Department's written advice, Council will proceed with the planning proposal. Any future correspondence in relation to this matter should quote reference number 1/2020/PLP. Should you require further information please contact Alicia Iori, Senior Town Planner on 9843 0396.

Yours faithfully

Nicholas Carlton
MANAGER – FORWARD PLANNING

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – to introduce exempt development criteria for advertising on public infrastructure including bus shelters, seats, street signs and bridges

ADDRESS OF LAND: All land to which The Hills Local Environmental Plan 2012 applies

SUMMARY OF HOUSING AND EMPLOYMENT YIELD:

| | EXISTING | PROPOSED | TOTAL YIELD |
|-----------|----------|----------|-------------|
| Dwellings | N/A | N/A | N/A |
| Jobs | N/A | N/A | N/A |

SUPPORTING MATERIAL:

| | |
|--------------|---|
| Attachment A | Assessment against State Environment Planning Policies |
| Attachment B | Assessment against Section 9.1 Local Planning Directions. |
| Attachment C | Council Report and Resolution, 13 August 2019 |
| Attachment D | Local Planning Panel Report and Resolution, 18 September 2019 |

BACKGROUND:

1. Key Signage Types

Council currently has 20 and 10 year contracts with two service providers, being Adshel (now Ooh) and Claude Outdoor, for the provision of bus shelters, seats and street signs. The contracts require service providers to install and maintain transport infrastructure in exchange for advertising rights. The service providers also pay an annual fee which provides a minor revenue source for Council. The service contracts include objectives and controls to ensure advertising is of a high standard and is appropriate in terms of its design, content and safety. Examples of this form of signage are provided below.

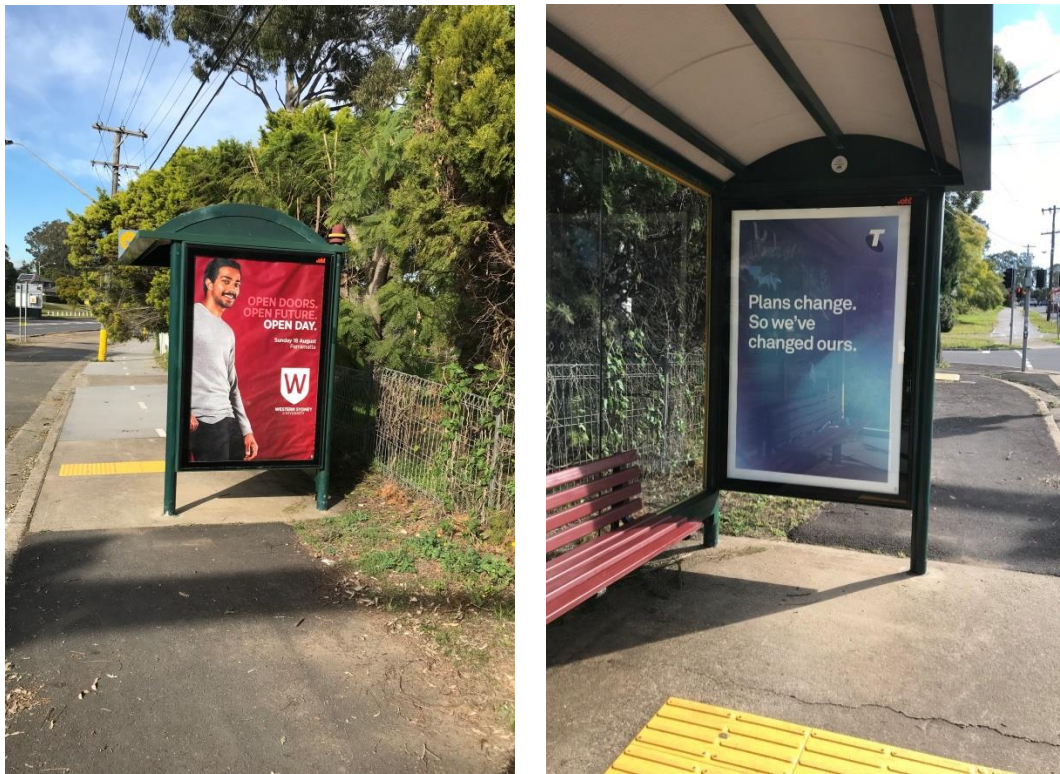


Figure 1
Advertising on Bus Shelters



Figure 2
Example Advertising on Street Signs

There are also potential opportunities for advertising to be placed on bridges (such as pedestrian bridges) over major road corridors. A pedestrian bridge has recently been constructed by Council over Windsor Road, Kellyville and there are a number of planned pedestrian bridges within the Balmoral Road Release Area and commercial centres such as Castle Hill and Baulkham Hills. While Council does not currently have any advertising structures on bridges within the Shire, there may be opportunities to do so in the future as part of existing and/or future bridge infrastructure.

The example below shows this form of signage which was completed on behalf of NSW Roads and Maritime Services.



Figure 3
Example Advertising on Bridges

2. Legislative Framework

The above types of signage have previously been treated as 'road related infrastructure' under the Infrastructure SEPP on the grounds that advertising is an integral part of the delivery and maintenance model for such infrastructure. However, for the avoidance of doubt and to prevent any delays or uncertainty in the provision of road related infrastructure, administrative amendments are appropriate to Council's LEP and the Growth Centres SEPP in relation to North Kellyville and Box Hill.

A summary of the key legislation which guides the provision and approval of advertising signage is provided below.

SEPP 64 – Advertising and Signage

SEPP 64 applies to all signage that can be seen from a public space. While State authorities have broader powers to place advertising signage within transport corridors (such as railway corridors and road corridors), Council is subject to requirements under the SEPP which prohibit advertising signage in certain locations such as 'heritage areas' or residential zones. It is noted that SEPP 64 does not apply to signage that is specified as exempt development under any applicable Environmental Planning Instrument (for example, Council's LEP).

All signage which is visible from a public space and is not identified as either exempt or prohibited requires development consent under the SEPP. The SEPP outlines the consent authority for different types of signage which can be Council, RMS or the Minister for Planning. The Minister is generally the consent authority for advertising by or on behalf of State authorities within major transport corridors or on land that is owned, occupied or managed by the RMS.

The SEPP includes specific requirements for signs of certain sizes and heights, and also for signs on bridges. This advertising signage must be consistent with the objectives of the SEPP, satisfy the criteria within the Transport Corridor Outdoor Advertising Signage Guidelines and be acceptable in terms of design, road safety, and public benefits provided in connection with the display of the advertisement.

Whilst the SEPP and the supporting guidelines outline the criteria to be considered in the display of advertising on transport corridors, it does not explicitly permit or prohibit advertising by Council on bus shelters and street signs.

Heritage Significance of Windsor Road and Old Windsor Road

With the exception of signage by or on or behalf of a State Government Authority, advertising within a 'heritage area' is specifically prohibited under SEPP 64 (including signage by or on or behalf of Council). While there is some ambiguity around what constitutes a 'heritage area', it is noted that two of the Shire's major urban transport corridors, Windsor Road and Old Windsor Road, are listed (in part) as items of environmental heritage under LEP 2012 and as such, Council is technically prohibited from placing advertising signage within these road corridors.

While advertising on bridges would otherwise be permitted under SEPP 64, the heritage listing of Old Windsor Road and Windsor Road prohibits the delivery of this form of signage by Council along these major road corridors (notwithstanding that certain State Agencies such as the RMS, Sydney Metro and Transport for NSW are excluded from this prohibition).

Where advertising is permitted under SEPP 64 in heritage areas (by or on behalf of a State Authority), the Transport Corridor Guidelines note that structures should not be located so as to diminish the heritage values of items or areas of local, regional or state heritage significance.

The significance of Windsor Road and Old Windsor Road predominantly relates to the alignment of these roads and their historic use as tracks to the Hawkesbury. These roads are now major transport corridors upon which there is already significant State infrastructure comprising commercial advertising. Accordingly, it is considered that the provision of advertising by Council in conjunction with public infrastructure on these roads would not be unreasonable or create any adverse impact on the heritage significance of these items.

The Hills Local Environmental Plan (LEP) 2012

The Hills LEP 2012 prohibits advertising structures and signage on all land, except for 'building identification signs' and 'business identification signs' which are permitted within certain zones (including all residential zones). Real estate signs and signs related to home businesses are exempt if they comply with the relevant criteria under LEP 2012 and State Environmental Planning Policy (Exempt and Complying Development Code) 2008.

Building and business identification signs are required to be located at the premises or place at which the sign is displayed. Accordingly, the permissibility of these would not extend to commercial advertising on bus shelters, seats, street signs and bridges.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The Growth Centres SEPP permits business identification signs and building identification signs in higher density residential zones and employment zones within the North Kellyville and Box Hill Precincts. In the Box Hill Precinct, business identification signs are permitted in the R2 Low Density Residential zone whereas all signage is prohibited in this zone within the North Kellyville Precinct. There are currently no exempt development criteria under this SEPP for either Precinct which would enable Council to install commercial advertising on bus shelters, seats, street signs and bridges.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of this planning proposal is to address ambiguity in the legislative framework applicable to advertising and signage and clarify the permissibility and approval pathway for advertising on certain types of public infrastructure through Council's LEP 2012.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by including exempt development provisions for advertising on bus shelters, seats, street signs and bridges under Schedule 2 of The Hills Local Environmental Plan 2012. The provisions would establish criteria that would override the existing prohibition of these types of signage within residential and heritage areas under SEPP 64 and streamline the delivery and approval of road related infrastructure in accordance with Council's contracts with service providers. Draft Provisions to be included within LEP 2012 are provided below (subject to final drafting by Parliamentary Counsel):

Schedule 2 – Exempt Development

- **Signage – advertisements associated with bus shelters and bus stop seating**
 - *Maximum of one advertisement per bus shelter that may comprise an advertisement on 2 sides and maximum of one advertisement per bus stop seat;*
 - *Maximum size of advertisement shall be 1.2m x 1.8m;*
 - *Must not contain moveable or flashing content;*
 - *Must comply with relevant Australian Standards and National Disability Standards;*
 - *Must not adversely impact on any heritage item within the locality; and*
 - *Must be undertaken by or on behalf of Council.*
- **Signage – advertisements associated with street signs**
 - *Maximum of two advertisements per street sign that may each comprise an advertisement on 2 sides;*
 - *Maximum size per advertisement shall be 1.2m x 1.8m;*
 - *Must not contain moveable or flashing content;*
 - *Where proposed in rural or low density residential zones, must be located on an Arterial or Sub-arterial road as designated within Council's adopted road hierarchy;*
 - *Must comply with relevant Australian Standards and National Disability Standards;*
 - *Must not adversely impact on any heritage item within the locality; and*
 - *Must be undertaken by or on behalf of Council.*
- **Signage – advertisements associated with bridges**
 - *Must comply with the criteria for advertising on bridges within the Transport Corridor Outdoor Advertising and Signage Guidelines to ensure that the signage is acceptable in terms of:*
 - *Design, and*
 - *Road safety, and*
 - *Public benefits to be provided in connection with the display of the advertisement; and*
 - *Must be undertaken by or on behalf of Council.*

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of a strategic review of advertising on public infrastructure throughout the Shire.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, the planning proposal is considered to be the best way to achieve the intended outcomes for the site. The strategic review concluded that there is considerable ambiguity in the numerous policies and guidelines which regulate advertising in NSW and The Hills Shire more specifically. The planning proposal will assist with addressing this ambiguity by clarifying the permissibility and approval pathway for this form of advertising through Council's planning instruments.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, a discussion of consistency is provided below.

Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan sets the vision and aspirations for Greater Sydney to 2056. The planning for Greater Sydney is built upon a vision of a metropolis of three cities where most residents live within 30 minutes of jobs, education, health facilities, services and great places.

The Hills Shire is part of Sydney's Central City. The Central City District Plan is a 20 year plan to manage growth and implement the objectives of the Greater Sydney Region Plan at a district level. Its key directions and planning priorities align with the overarching themes of liveability, productivity and sustainability as established within the Region Plan.

Key planning priorities of relevance to this planning proposal are as follows:

- Liveability Priority C3: Providing services and social infrastructure to meet people's changing needs
- Liveability Priority C6: Creating and renewing great places and local centres, and respecting the District's heritage
- Sustainability Priority C16: Increasing urban tree canopy cover and delivering Green Grid connections
- Sustainability Priority C17: Delivering high quality open space

The above priorities seek to ensure residents have access to services, programs and infrastructure to meet their needs and to foster healthy, socially connected communities through the provision of infrastructure such as walking and cycling connections. The priorities also seek to encourage the delivery of active recreation connections including providing Sydney's Green Grid which comprises a network of quality green spaces linking centres, public transport and public spaces to green infrastructure and landscape features.

The planning proposal will enable Council to continue to deliver important road related infrastructure such as bus shelters, which will enhance the amenity and accessibility of neighbourhoods and support healthy modes of transport. It will also assist in the cost-effective delivery and ongoing maintenance of walking and cycling connections such as pedestrian bridges including those that form part of Sydney's Green Grid. Accordingly, the proposal is considered to be consistent with these plans.

Hills Future Community Strategic Plan

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where the Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal will support objectives of Council's Community Strategic Plan with respect to the delivery and management of infrastructure as well as maintaining a strong financial position that will enable the continued provision of necessary services and facilities to the community into the future.

Local Strategy and Directions

In 2008 Council adopted its Local Strategy to provide the basis for the future direction of land use planning in the Shire and within this context implement the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Integrated Transport Direction and Environment and Leisure Direction are the relevant components of the Local Strategy to be considered in assessing this application.

Integrated Transport Direction

The Integrated Transport Direction provides the overall strategic context for planning and managing the Shire's transport system. It includes key actions and objectives to ensure the Shire's transport system is efficient, accessible and connected.

The planning proposal will assist with meeting the following key objectives of the Integrated Transport Direction:

- Provide for transport infrastructure to service, support and connect local destinations
- Enhance the attractiveness of the public transport network as a travel option
- Guide the planning and delivery of new transport facilities and services to support new areas
- Contribute to the development of a transport network that is safe and accessible to all users
- Ensure the protection of cultural heritage along transport corridors

The planning proposal will assist with the delivery of safe and accessible public transport facilities that will enhance the attractiveness of this form of travel for residents and workers. The planning proposal will also ensure Council is in a financial position to continue to provide transport infrastructure in new and existing areas. The proposal has acknowledged the heritage significance of major transport corridors such as Windsor Road and Old Windsor Road and determined that there would be limited impact on the heritage significance of these roads. Notwithstanding the foregoing, a requirement has been included within the draft provisions that any proposed advertising must not create an adverse impact on any surrounding items of environmental heritage.

Environment and Leisure Direction

The Environment and Leisure Direction provides a statement of Council's desired approach for the planning, protection and management of the Shire's environment and leisure spaces.

The proposal is considered to be consistent with key aims of this direction which seek to provide an accessible network of well-located and connected walking and cycle trails. The planning proposal seeks to ensure the most efficient use of Council resources to deliver and maintain active transport infrastructure such as pedestrian bridges.

Draft Local Strategic Planning Statement and Supporting Strategies

The draft Local Strategic Planning Statement (LSPS) will guide future land use planning and the management of growth in the Shire based on The Hills Shire's economic, social and environmental land use needs to 2036. The draft LSPS contains planning priorities and actions structured around the five themes of Council's Community Strategic Plan to assist with the delivery of housing, jobs, parks and services for the Shire's growing population.

The draft LSPS is supported by the evidence base established as part of the individual strategies. The supporting strategies of relevance to this planning proposal are the Draft Recreation Strategy and Draft Integrated Transport & Land Use Strategy.

Draft Recreation Strategy

The Draft Recreation Strategy is a culmination of research and analysis undertaken to guide the future planning, delivery and management of open space and recreation in the Shire to 2036. The draft strategy includes a key priority to expand and improve the Shire's active transport network with pedestrian and cycle paths. The planning proposal is consistent with this priority as will assist with the provision of active transport infrastructure such as pedestrian bridges which provide critical links along pedestrian/cycle networks and within centres.

Draft Integrated Transport & Land Use Strategy

The Draft Integrated Transport & Land Use Strategy seeks to support the planning, delivery and management of the Shire's transport networks in both the short and long term. The delivery of public transport infrastructure and active transport connections which will be facilitated by the planning proposal will support the following key priorities of the draft strategy:

- Plan for convenient, connected and accessible public transport
- Expand and improve our active transport network.

4. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A. A discussion on the consistency of the proposal with the relevant Policies is provided below.

- **State Environmental Planning Policy No 64 – Advertising and Signage**

The key aims and objectives of SEPP 64 seek to ensure advertising and signage is of a high quality design and finish and is compatible with the desired visual character of an area. The SEPP also seeks to ensure advertising in transport corridors is acceptable in terms of design, road safety and public benefits.

The proposal is considered to be consistent with aims, objectives and relevant criteria within SEPP 64. Whilst the proposals will facilitate advertising and signage within environmentally sensitive areas, heritage areas and residential zones (where currently prohibited by the SEPP), the proposed exempt development provisions will limit the environmental impact of such signage through regulating its location, quantity, scale, design and finish. The proposal will also require such signage to comply with relevant Australian Standards and National Disability Standards and to not adversely impact on any heritage item within the locality.

In relation to advertising on bridges, the proposed exempt development criteria will ensure any such advertising is consistent with assessment criteria contained within the Transport Corridor Outdoor Advertising Signage Guidelines. The amendments will insert into LEP 2012 much of the same criteria as already contained within SEPP 64, albeit applied through the exempt development pathway rather than through a development application.

- **State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP seeks to facilitate the effective delivery of infrastructure across NSW through measures such as improving regulatory certainty and efficiency. The SEPP permits critical public infrastructure such as bus shelters and street signs as exempt development.

Advertising on public infrastructure has previously been treated as 'road related infrastructure' under the Infrastructure SEPP, on the grounds that advertising is an integral part of the delivery and maintenance model for such infrastructure. The planning proposal is consistent with the aims and objectives of the SEPP as it will provide regulatory certainty and efficiency in the delivery of road infrastructure. The proposal will address ambiguity in the current legislative framework and clarify the permissibility and approval pathway for this form of advertising (which is always linked to road related infrastructure) through The Hills Local Environmental Plan 2012.

5. Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Yes. The consistency of the planning proposal with the s. 9.1 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

- **Direction 1.2 Rural Zones**

This direction applies where a planning proposal affects land within an existing or proposed rural zone. The key purpose of the direction is to protect the agricultural production value of rural land.

The proposal will not rezone any rural land or increase the permissible density of land within a rural zone. Accordingly, the proposal is considered to be consistent with this direction.

- **Direction 2.1 Environmental Protection Zones**

This direction requires relevant planning proposals to include provisions to protect and conserve environmentally sensitive areas. Relevant proposals must not reduce the environmental protection standards that apply to the land.

The advertising and signage that would be facilitated through the subject proposal may be located on land in the Shire where an environmental protection zone has been applied. The proposal will not alter existing provisions that protect land to which an environmental protection zone has been applied. Further, the proposed exempt development provisions will ensure that the form and scale of advertising on public infrastructure does not adversely impact on the surrounding environment. Accordingly, it is considered the proposal is consistent with this direction.

- **Direction 2.3 Heritage Conservation**

This direction requires proposals to contain provisions that facilitate the conservation of items of environmental heritage.

The planning proposal includes a provision that advertising on public infrastructure must not adversely impact on any heritage item within the locality. Accordingly, it is considered the proposal has satisfied the requirements of this direction.

- **Direction 3.1 Residential Zones**

This direction applies where planning proposals will affect land within an existing or proposed residential zone or any other zone where significant residential development is permitted. Key objectives of this direction are to ensure proposals encourage the provision of housing and will not reduce the permissible density of land.

The subject proposal relates only to advertising and signage on public infrastructure and will not amend permissible residential uses or densities within any of the above zones. Accordingly, the proposal is considered to be consistent with this direction.

- **Direction 5.9 North West Rail Link Corridor Strategy**

This direction seeks to promote transit oriented development around the Sydney Metro Northwest stations and ensure development is consistent with the State Government's North West Rail Link Corridor Strategy in terms of growth projections and desired character.

The proposal is consistent with principles of transit oriented development in that it will make travel by walking, cycling and public transport more convenient and attractive. The proposal does not seek to alter any residential or employment outcomes envisaged under the North West Rail Link Corridor Strategy. Further, the proposal is consistent with the overall objectives of the strategy

which seek to enhance pedestrian and cycle connections and encourage sustainable modes of transport.

- **Direction 6.1 Approval and Referral Requirements**

The purpose of this direction is to minimise the inclusion of provisions that require concurrence, consultation or referral of development applications to a Minister or public authority. The planning proposal is consistent with this direction as it will facilitate the delivery of community infrastructure without the need for any referral to, or approval, from public authorities.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

6. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The provision of advertising on existing structures is considered unlikely to have any impact on critical habitat or threatened, populations or ecological communities, or their habitats.

7. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

It is considered that the proposed exempt development criteria are sufficient to minimise any potential environmental impact associated with advertising on existing structures.

8. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will assist financially with the delivery of critical infrastructure such as public transport facilities and active transport connections such as pedestrian bridges. Accordingly, the proposal is considered to have positive social and economic benefits.

SECTION D - STATE AND COMMONWEALTH INTERESTS

9. *Is there adequate public infrastructure for the planning proposal?*

The proposal will assist with the delivery of transport infrastructure and will not create additional demand for public infrastructure.

10. *What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

It is anticipated the following public agencies will be consulted on the planning proposal:

- Transport for NSW
- Roads and Maritime Services
- Department of Planning, Industry and Environment (Heritage)

Following the Gateway determination, all relevant agencies will be consulted.

PART 4 MAPPING

There are no maps being amended as part of the subject planning proposal.

PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised in local newspapers and on display at Council's administration building and libraries. The planning proposal will also be made available on Council's website.

PART 6 PROJECT TIMELINE

| STAGE | DATE |
|---|---------------|
| Commencement Date (Gateway Determination) | November 2019 |
| Government agency consultation | December 2019 |
| Commencement of public exhibition period (14 days) | December 2019 |
| Completion of public exhibition period | December 2019 |
| Timeframe for consideration of submissions | January 2020 |
| Timeframe for consideration of proposal post exhibition | February 2020 |
| Report to Council on submissions | March 2020 |
| Planning Proposal to PCO for opinion | April 2020 |
| Date Council will make the plan (if delegated) | May 2020 |
| Date Council will forward to department for notification (if delegated) | May 2020 |