

## Greater Sydney, Place and Infrastructure

IRF19/7063

### Gateway determination report

<b>LGA</b>	The Hills Shire Council
<b>PPA</b>	The Hills Shire Council
<b>NAME</b>	Introduce exempt development criteria for advertising on public infrastructure (0 dwellings)
<b>NUMBER</b>	PP_2019_THILL_006_00
<b>LEP TO BE AMENDED</b>	The Hills Local Environmental Plan 2012
<b>ADDRESS</b>	LGA wide
<b>DESCRIPTION</b>	LGA wide
<b>RECEIVED</b>	14 October 2019
<b>FILE NO.</b>	IRF19/7063
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

Council currently has contracts with service providers 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 (i.e. advertising on bus shelters and street signs **Figures 1-3**).

The planning proposal (**Attachment A1-A5**) seeks 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 by introducing exempt development criteria for advertising on public infrastructure (i.e. bus shelters, bus stop seating, street signs and bridges) under The Hills Local Environmental Plan 2012.

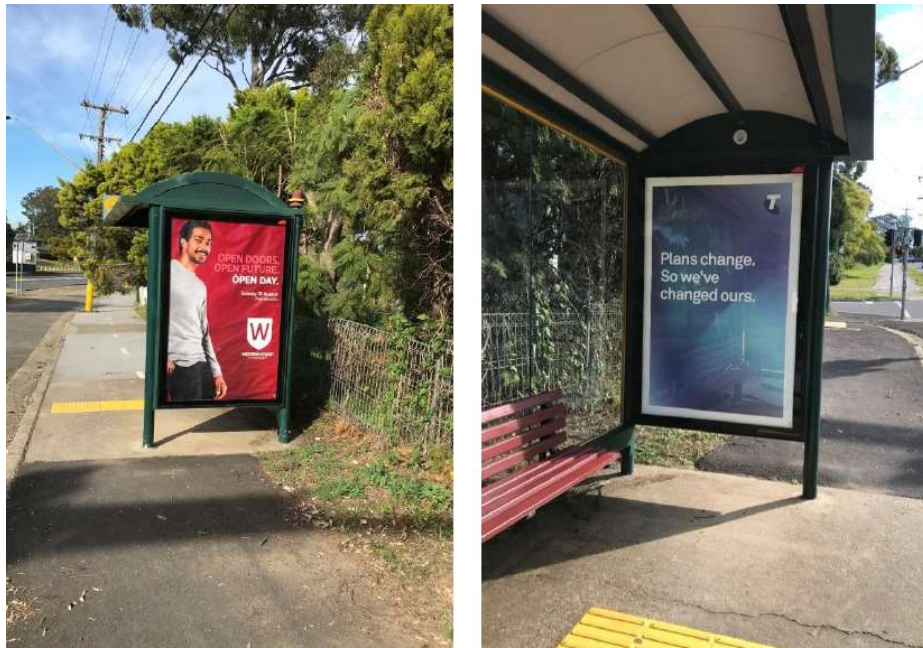


Figure 1: Examples of advertising on bus shelters



Figure 2: Example of advertising on street signs



Figure 3: Example of advertising on bridge

## 1.2 Site description

The planning proposal seeks to implement a policy change which will apply to all land to which The Hills Local Environmental Plan 2012 applies. The proposal seeks to introduce exempt criteria for advertising on bus shelters, street signs and bridges near roadways throughout the local government area.

## 1.3 Existing planning controls

Advertising on bus shelters, bus stop seating, street signs and bridges are currently treated as 'road related infrastructure' under the State Environmental Planning Policy (Infrastructure) 2007 as advertising is an integral part of the delivery and maintenance model for such infrastructure (bus shelters, street signs and bridges).

The Hills Local Environmental Plan 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.

Council have prepared this planning proposal (**Attachment A1-A5**) for the avoidance of doubt and to prevent any delays or uncertainty in the provision of road related infrastructure, via amendments are appropriate to The Hills LEP and the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 in relation to North Kellyville and Box Hill (subject of another planning proposal PP\_2019\_THILL\_008\_00).

## 1.4 Summary of recommendation

The planning proposal is to proceed and receive a Gateway determination as it does not seek to give Council authority to do anything above and beyond what Council are already doing under the Infrastructure SEPP for advertising on bus shelters, street signs or bridges. 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. The proposal has demonstrated strategic and site-specific merit.

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

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 The Hills LEP 2012. A summary of the legislative framework is provided under the Need for the planning proposal section of this report.

### 2.2 Explanation of 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.

Council has provided draft provisions in the planning proposal (**Attachment A1**) as follows (**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.*

### 2.3 Mapping

The proposal is not required to amend any mapping under The Hills Local Environmental Plan 2012.



### **3. NEED FOR THE PLANNING PROPOSAL**

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As discussed previously, advertising on bus shelters, bus stop seating, street signs and bridges are currently treated as 'road related infrastructure' under the State Environmental Planning Policy (Infrastructure) 2007.

Council have prepared this planning proposal for the avoidance of doubt and to prevent any delays or uncertainty in the provision of road related infrastructure under the current legislative framework.

The proposal does not seek to give Council authority to do anything above and beyond what Council are already doing under the Infrastructure SEPP for advertising on bus shelters, street signs or bridges. The proposal is seeking to allow for a straightforward pathway for Council to carry out their current process as exempt development under the environmental planning instruments which apply provisions under the LEP and Growth Centres SEPP.

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

#### State Environmental Planning Policy No 64 – Advertising and Signage

SEPP 64 applies to all signage that can be seen from a public space and under the SEPP State authorities have broader powers to place advertising signage within transport corridors (such as railway corridors and road corridors). However, Council is subject to requirements under the SEPP which prohibit advertising signage in certain locations such as 'heritage areas' or residential zones.

SEPP 64 does not apply to signage that is specified as exempt development under any applicable Environmental Planning Instrument (including The Hills LEP).

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 that 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 and road safety. The planning proposal includes draft provisions requiring consistency with criteria within the Transport Corridor Outdoor Advertising Signage Guidelines.

#### 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.

The permissibility under the LEP does not extend to exempt criteria for commercial advertising on bus shelters, seats, street signs and bridges. The proposal seeks to introduce exempt criteria in the LEP for such advertising to enable a straightforward pathway for such works to occur under local provisions.

## State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The Growth Centres SEPP Appendix 2 and Appendix 11 contain provisions for North Kellyville and Box Hill Precincts, including provisions which permit 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. A separate planning proposal (PP\_2019\_THILL\_008\_00) with the Department for Gateway consideration seeks to introduce exempt criteria for advertising on bus shelters, street signs and bridges.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 District**

#### Central City District Plan

The Greater Sydney Commission released the Central City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the Central City District while improving the district's social, economic and environmental assets. 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

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.

The planning proposal will enable Council to continue to deliver important road related infrastructure such as bus shelters, which gives effect to the above priorities. The Department is satisfied that the proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

### **4.2 Local**

#### The Hills Future Community Strategic Plan

Hills Future is the guiding strategic document for The Hills Shire until the Local Strategic Planning Statement is finalised. Council states the planning proposal will assist in the realisation of The Hills Future outcome with respect to the delivery and management of infrastructure and enabling the provision of necessary services and facilities for the community. The proposal is consistent with The Hills Future as it enables clarity around the legislative framework under which advertising on bus shelters, street signs and bridges can occur and subsequently continue providing a revenue stream to Council for the provision of the bus shelters, street signs and bridges.

## Draft Hills Future 2036 Local Strategic Planning Statement and Supporting Strategies

The draft The Hills LSPS provides land use vision for The Hills Shire and gives effect to the Greater Sydney Region Plan and Central City District Plan. The draft LSPS is supported by draft strategies including the Draft Recreation Strategy and Draft Integrated Transport & Land Use Strategy.

The proposal is consistent with these draft strategies as it will continue providing a revenue stream to Council for the provision of active transport infrastructure such as pedestrian/cycle bridges.

### Local Planning Panel

On 19 September 2019, The Hills Shire Local Planning Panel resolved that the planning proposal should proceed to Gateway as the Panel generally agrees with the Council Officer's report (**Attachment A5**).

### **4.3 Section 9.1 Ministerial Directions**

The proposal is consistent with all relevant Section 9.1 Ministerial Directions, particularly with:

#### Direction 2.1 Environmental Protection Zones

This Direction requires relevant planning proposals to include provisions to protect and conserve environmentally sensitive areas. The advertising and signage that would be facilitated through the subject proposal may be located on land in The Hills Shire where an environmental protection zone has been applied. The proposal will not alter existing provisions that protect such land and will ensure that the form and scale of advertising on public infrastructure does not adversely impact on the surrounding environment. 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 and the proposal is therefore consistent with this Direction.

#### 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 advertising on bus shelters, road signs and bridges without the need for any referral to, or approval, from public authorities.

### **4.4 State environmental planning policies (SEPPs)**

The planning proposal is consistent with the following relevant SEPPs.

#### 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.

Except for 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). 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 Schedule 5 of The Hills 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, the provision of advertising by Council in conjunction with public infrastructure on these roads and the planning proposal would not be unreasonable or create any adverse impact on the heritage significance of these items.

#### 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 does not seek to give Council authority to do anything above and beyond what Council are already doing under the Infrastructure SEPP for advertising on bus shelters, street signs or bridges. 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. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social and Economic**

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. The proposal is considered to have positive social and economic benefits.



## **5.2 Environmental**

The proposed exempt development criteria are sufficient to minimise any potential environmental impact associated with advertising on existing structures.

## **6. CONSULTATION**

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### **6.1 Community**

Council proposes a minimum public exhibition period of 14 days. A public exhibition period of 14 days is considered an appropriate amount of time to gauge the response by the community as the proposal is a minor policy amendment.

### **6.2 Agencies**

The Department recommends Council consults with the following agencies:

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

## **7. TIME FRAME**

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The timeframe to finalise this Planning Proposal is 9 months, which is considered appropriate.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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As the proposal seeks a minor policy amendment, it is recommended that Council are granted local plan-making authority.

## **9. CONCLUSION**

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The planning proposal is to proceed and receive a Gateway determination as it does not seek to give Council authority to do anything above and beyond what Council are already doing under the Infrastructure SEPP for advertising on bus shelters, street signs or bridges. 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. The proposal has demonstrated strategic and site-specific merit.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities:
  - Transport for NSW;
  - Roads and Maritime Services; and
  - Department of Planning, Industry and Environment (Heritage)
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



**10 November 2019**  
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