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Gateway determination report – PP-2021-6833

Permitting advertising on bus shelters as exempt development

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1 Introduction

1.1 Overview

Table 1 Planning proposal details

LGA	Woollahra
PPA	Woollahra Council
NAME	Permitting advertising on bus shelters as exempt development
NUMBER	PP-2021-6833
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014
ADDRESS	Woollahra LGA
DESCRIPTION	N/A
RECEIVED	11/11/2021
FILE NO.	IRF21/4866
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Site description and surrounding area

The planning proposal relates to the Woollahra LGA, which extends from Paddington in the west to Watsons Bay in the east. It is bounded by Sydney Harbour to the north and Bondi Junction to the south.

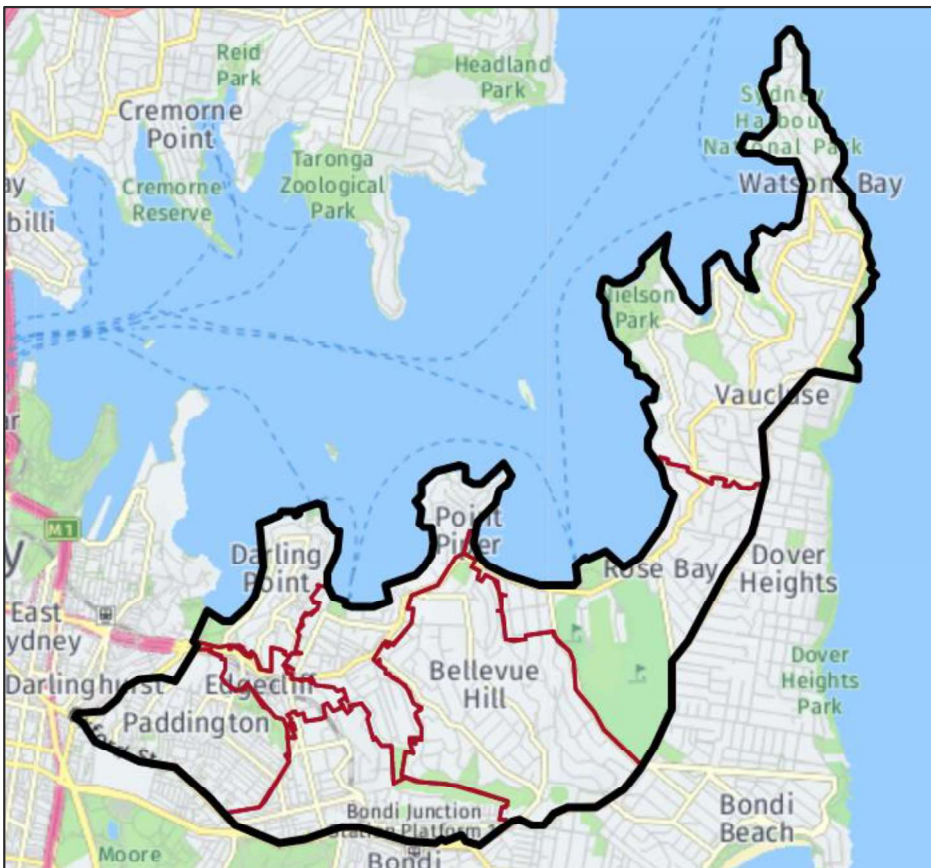


Figure 1 Woollahra LGA boundaries (Source: Profile.id)

2 Planning proposal

2.1 Objectives or intended outcomes

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Amend the Woollahra Local Environmental Plan (LEP) 2014 to permit advertising on bus shelters as exempt development;
- Ensuring that the signage is compatible with the desired visual character of the LGA; and
- Overcome the limitations of *State Environmental Planning Policy No 64—Advertising and Signage* (SEPP 64) which prohibits the display of advertisements in certain areas.

The objectives of this planning proposal are clear and adequate.

2.2 Explanation of provisions

The planning proposal seeks to amend the Schedule 2 of the LEP by inserting a provision for advertising on bus shelters. The proposed provisions are below:

Signage – Bus shelter advertising

- (1) Must not extend beyond the perimeter of the bus shelter.
- (2) Must not contain flashing or neon signage.

- (3) Must not be located on land that comprises a heritage item.
- (4) Must be erected by or on behalf of the Council.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. However, as a condition of Gateway, the planning proposal should more clearly state that the proposed provisions are indicative only.

2.3 Mapping

The planning proposal does not seek to amend any maps in the Woollahra LEP 2014.

3 Need for the planning proposal

The planning proposal is not the result of a specific strategic study. However, a review of the opportunities for bus shelter advertising in the Woollahra LGA informed Council's resolution to prepare this planning proposal.

The objective of the planning proposal is to amend the Woollahra LEP 2014 to permit advertising on bus shelters as exempt development whilst ensuring that the signage is compatible with the desired visual character of the Woollahra LGA.

The planning proposal states that the best means of achieving the intended outcome is through the planning proposal process, to amend the Woollahra LEP 2014 to permit advertising on bus shelters and overcome the limitations of SEPP 64.

Currently SEPP 64 prohibits the display of advertisements in certain areas, however including provisions in an LEP will allow for the advertising to be exempt development and facilitate a streamlined process to use bus shelters for advertising.

The Department supports the planning proposal proceeding to public exhibition.

4 Strategic assessment

4.1 District Plan

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

The planning proposal is consistent with the priorities for liveability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 2 District Plan assessment

District Plan Priorities	Justification
Creating and renewing great places and local centres, and respecting the District's heritage	The planning proposal states that it will contribute to the liveability of the Woollahra LGA as it will introduce exempt development provisions for advertising on bus shelters that will ensure it is well-designed and conserves environmental heritage.

4.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 3 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The planning proposal states that it supports the planning priority in which “placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.” It notes that permitting bus shelter advertising as exempt development will provide an opportunity to increase Council's revenue which will support placemaking initiatives and infrastructure provision in the LGA.
Woollahra 2030	The planning proposal states that it will support the goal to “maintain Council's strong financial position” as it will provide an opportunity to significantly increase Council's annual income and to effectively deliver services and infrastructure.

4.3 Local planning panel (LPP) recommendation

On 16 September 2021, the Woollahra LPP considered a report on the planning proposal. It recommended Council proceed with the proposal and forward it to the Department.

Council accepted the LPP's advice at its meeting on 25 October 2021 and resolved to forward the planning proposal to the Department and request Gateway determination.

4.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below. It does not rezone or intensify land uses outlined in the Ministerial directions.

Table 4 Section 9.1 Ministerial Direction assessment

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
2.3 Heritage conservation	Yes	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The planning proposal facilitates

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
		<p>conservation by excluding bus shelter advertising on land that contains a heritage item.</p> <p>The direction also requires addressing the heritage significance to an area. There are no current exclusions to bus shelter advertising within heritage conservation areas in the proposal.</p> <p>The Department considers that the impact of bus shelter advertising would be minimal. However, it is recommended that the planning proposal be updated to clarify the intent regarding design compatibility between the advertising structure and the bus shelter generally. This covers, but is not limited to, heritage style bus shelters.</p>
3.4 Integrating land use and transport	Yes	<p>This direction aims to increase the choice of available transport and reduce dependency on cars. The planning proposal does not create, alter or remove a zone. However, by enabling advertising in bus shelters, it aligns with <i>Improving Transport Choice – Guidelines for planning and development</i> as bus shelter advertising can potentially enhance pedestrian amenity through attractive, lighting and signage.</p>
6.1 Approval and Referral Requirements	Yes	<p>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. By including bus shelter advertising as exempt development, this planning proposal streamlines approvals required for such development of minor significance.</p>

4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

Table 5 SEPP assessment

SEPP	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
SEPP 64	Yes	<p>According to clause 6(2), SEPP 64 does not apply to signage that is exempt development under an environmental planning instrument that applies to it. The planning proposal is consistent with SEPP 64 because it seeks to insert bus shelter advertising as exempt development under the Woollahra LEP.</p> <p>The additional design-related provisions align with the aims of the SEPP to ensure that signage</p>

(including advertising) is compatible with the desired amenity and visual character of an area and is of high quality design and finish.

Nevertheless, SEPP 64 requires development consent for advertising in transport corridor land for advertising by Transport for NSW or the specified agencies. It also prohibits advertising in places zoned or described, for example, as open space, heritage areas, residential. The planning proposal is not inconsistent with these requirements.

5 Site-specific assessment

5.1 Environmental

As noted in the planning proposal, bus shelters are typically located along main roads and the proposal is for the installation of advertisements not the erection of bus shelters. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats that would be impacted by the planning proposal.

However, there are potential traffic impacts as some advertising can be distracting to vehicular traffic, particularly on main roads. Accordingly, the Gateway determination has conditioned consideration of illumination, design compatibility and consultation with Transport for NSW.

5.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 6 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	The planning proposal notes that bus shelter advertising will be managed by Council through contracts that will specify maintenance requirements and ensure that advertisements are appropriate in design and content to maintain amenity.
Economic	The stated benefit of the planning proposal is that Council will be able to increase its revenue through bus shelter advertising to support its initiatives and infrastructure.

5.3 Infrastructure

There is no significant infrastructure demand that will result from the planning proposal. The planning proposal does not involve any amendments to the planning controls that will facilitate

intensified development. The site has access to adequate public infrastructure such as water, sewer, electricity, telephone services and is nearby to transport services.

6 Consultation

6.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

6.2 Agencies

Council has nominated to consult with Transport for NSW about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment, consistent with the proposed community consultation period:

- Transport for NSW

7 Timeframe

Council proposes a 5-6 month time frame to complete the LEP.

Accordingly, the Department recommends a time frame of 6 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the Gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

8 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is minor in nature and of local significance, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

9 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with the objectives, direction and planning priorities of the Eastern City District Plan and gives effect to the Woollahra Local Strategic Planning Statement;
- It is consistent with relevant SEPPs and Section 9.1 Directions.

Based on the assessment outlined in this report, the proposal must be amended before consultation to:


- Provide further information about the intent of the planning proposal in relation to issues around illumination, design compatibility between the bus shelter and advertising structure, and suitability in heritage conservation areas;
- Update the project timeline to reflect the timeframe allowed to complete the LEP, where appropriate; and

- Include an advisory in Section 4 of the planning proposal clearly stating that the wording of the proposed provisions are indicative only, and will be subject to drafting by Parliamentary Counsel's Office should the proposal progress to the finalisation stage.

10 Recommendation

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

1. Prior to public exhibition, the planning proposal is to be amended to:
 - a) Provide further information about the intent of the planning proposal in relation to issues around illumination, design compatibility between the bus shelter and advertising structure, and suitability in heritage conservation areas;
 - b) Update the project timeline to reflect the timeframe allowed to complete the LEP, where appropriate; and
 - c) Include an advisory in Section 4 of the planning proposal clearly stating that the wording of the proposed provisions are indicative only, and will be subject to drafting by Parliamentary Counsel's Office should the proposal progress to the finalisation stage.
2. Consultation is required with Transport for NSW under section 3.34(2)(d) of the Act. A copy of the planning proposal and any relevant supporting material is to be provided to Transport for NSW and given at least 21 days to comment on the proposal.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in the *Local Environmental Plan Making Guideline* (Department of Planning, Industry and Environment, December 2021).
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions; and
 - (c) there are no outstanding written objections from public authorities.
6. The planning proposal must be exhibited 2 months from the date of the Gateway determination.
7. The planning proposal must be reported to Council for a final recommendation 4 months from the date of the Gateway determination.
8. The timeframe for completing the LEP is to be **6 months** from the date of the Gateway determination.



____ (Signature)

17/12/21_____ (Date)

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