



IRF22/4007

Gateway determination report – PP-2022-3944

Lake Macquarie – To permit A-frame signage in commercial zones as exempt development

December 22

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2022-3944

Subtitle: Lake Macquarie – To permit A-frame signage in commercial zones as exempt development

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal	2
1.1	Overview.....	2
1.2	Objectives of planning proposal.....	2
1.3	Explanation of provisions	2
1.4	Site description and surrounding area	4
1.5	Background	4
2	Need for the planning proposal	4
3	Strategic assessment.....	4
3.1	Regional Plan	4
3.2	Local	6
3.3	Section 9.1 Ministerial Directions.....	6
3.4	State environmental planning policies (SEPPs)	8
4	Site-specific assessment.....	9
4.1	Environmental.....	9
4.2	Social and economic	10
4.3	Infrastructure	10
5	Consultation.....	10
5.1	Community	10
5.2	Agencies.....	10
6	Timeframe.....	10
7	Local plan-making authority	10
8	Assessment summary	11
9	Recommendation.....	11

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Draft Planning Proposal – Schedule 3 Exempt Development – Placement of A-Frame Signs
Council Report dated 21 February 2022
Council Resolution dated 21 February 2022

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Lake Macquarie Council
NAME	Amend Schedule 2 – Exempt Development provisions for A-frame signage located on footpaths
NUMBER	PP-2022-3944
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	N/A
DESCRIPTION	N/A
RECEIVED	8/11/2022
FILE NO.	IRF22/4007
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 Objectives of planning proposal

The objectives of the planning proposal are to:

- Amend Schedule 2 – Exempt Development provisions for A-frame signage located on footpaths within commercial zones

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Lake Macquarie LEP 2014 per the changes below:

Table 3 Current and proposed controls

Amendment Applies to	Explanation of Provision
Addition to Schedule 2 Exempt Development	<p>A-frame signage on footpaths.</p> <p>Must abide by exempt provisions:</p> <ol style="list-style-type: none"> 1. Businesses must hold current 'public liability insurance' of \$20 million. 2. A-frame displays are to be carried out by commercial businesses within commercial zones only. 3. Must be A-frame or self-standing single or double sided sign and is constructed of durable, fade proof and non-combustible materials of high aesthetic and professional quality. 4. The A-framed sign is to have a maximum height of 1200mm and width of 600mm. 5. A 2.0 metre wide unobstructed section of footpath from the frontage of a building is to be maintained at all times. 6. Must be located no closer than 600mm to the back of kerb. 7. Maximum of one A-framed sign per commercial business positioned no nearer than 3 metres from another A-framed sign. 8. Not permitted within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection. 9. The A-framed sign is not to obstruct or pose a risk to pedestrian or vehicular traffic. 10. The A-frame must be secured and positioned so as not to pose a hazard or inconvenience to pedestrians especially those with a disability. 11. The A-framed sign must be removed during hazardous weather. 12. The A-framed sign must be removed from the footpath outside of the approved operating hours of the related business. 13. The A-framed sign must not display offensive, violent, obscene or discriminatory text or graphics. 14. Text of the A-framed sign must relate to the business conducted on the premises or goods/services sold at the premises. 15. The A-framed sign must not be illuminated or incorporate any moving components. <p>Note: Other approvals may be required under the Local Government Act 1993 and the Roads Act 1993.</p>

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal applies to all commercial zones under the *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)*.

1.5 Background

A planning proposal was lodged 11 March 2022 to amend Schedule 2 – Exempt Development for A-framed signage and events (including markets) on Council owned land. Council was requested to resubmit after the finalisation of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* amendment which proposed to include certain outdoor events as exempt development (Fun SEPP).

Council has updated its planning proposal to remove the events component and now requests a Gateway determination for A-frame signage to be included in Schedule 2 – Exempt Development of *LMLEP2014*.

Currently, A-frame signs on footpaths require development approval as they are defined as signage under *LMLEP2014*. Typically, landowners have been unaware of this requirement and proceeded with this form of advertisement. Permitting A-frame signage as exempt development reduces the need to obtain development approval and provides clear design and locational parameters in commercial zones.

2 Need for the planning proposal

The planning proposal is not the result of a strategic study or report.

The purpose of the planning proposal is to permit A-frame signage as exempt development under Schedule 2 of *LMLEP2014*

Several alternative options were considered by Council such as:

1. Including in Local Approvals Policy – a development application is still required.
2. Establishing a streamline process for development approval – process cumbersome and would place unnecessary strain on Council resources.
3. No change to the current situation – places too much confusion on small business and the community.
4. Prepare a planning proposal to include A-frame signage on footpaths under Schedule 2 Exempt Development – preferred option.

The preparation of a planning proposal is supported to achieve the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

This Hunter Regional Plan 2041 sets the strategic land use framework for continued economic growth and diversification in one of Australia's most diverse and liveable regions. An assessment of the planning proposal against relevant objectives and strategies is provided in table 4, below.

Table 4 Hunter Regional Plan assessment

Hunter Regional Plan 2041 Objectives	Justification
<p>Objective 8: Plan for businesses and services at the heart of healthy, prosperous and innovative communities</p>	<p>The planning proposal will permit A-frame signage along footpaths as exempt development subject to complying with the design and location requirements.</p> <p>It is consistent with this objective by supporting business growth by increasing exposure opportunities without the need to obtain separate development approval.</p>
<p>Strategy 8.1:</p> <p>Local strategic planning should consider:</p> <ul style="list-style-type: none"> • encouraging resilient, accessible and inclusive hubs with a range of uses including town centre uses, night-time activities and civic, community, social and residential uses • focusing commercial and retail activity in existing commercial centres. • activating centres and main streets through active street frontages, restaurant/café seating, digital connectivity, outdoor entertainment, community gardens, placemaking initiatives and events <p>Strategy 8.2</p> <p>Planning proposal will accommodate new commercial activity in existing centres and main streets unless it forms part of a proposed new community or is an activity that supports a 15 minute neighbourhood</p>	<p>Increasing business exposure through A-frame signage should support business success, street activation and improved amenity.</p>

The *Greater Newcastle Metropolitan Plan 2036* sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle. Permitting A-frame signage as exempt development supports business growth. The proposal is consistent with Strategy 8 & 11 as explained in table 5, below

Table 5 Greater Newcastle Metropolitan Plan assessment

District Plan Priorities	Justification
Strategy 8: Address changing retail consumer demand	<p>The retail sector will continue to evolve in response to changing consumer behaviours. Supporting the success of small businesses contributes to street activation and improved amenity.</p> <p>The exempt development provision should also contribute to public domain improvements by removing the ad-hoc placement of irregular sized signage on footpaths.</p>
Strategy 11: Create more great public spaces where people come together	The planning proposal will improve the amenity of centres in Lake Macquarie Local Government Area and strengthen the connection between people and the places they share.

3.2 Local

The proposal is consistent with the draft Lake Macquarie City Local Strategic Planning Statement, which outlines how Lake Macquarie City Council will achieve the City's vision and uphold the community's values, through strategic planning.

The planning proposal is consistent with the draft LSPS by supporting small businesses and community groups to undertake placemaking and street activations and provide opportunities for business growth.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal will facilitate economic growth by supporting businesses and simplifying the approval process for A-frame signage. The planning proposal is consistent with the Hunter Regional Plan 2041 and the Greater Newcastle Metropolitan Plan 2036.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.3 Approval and Referral Requirements	Yes	The planning proposal will ensure that LEP provisions are efficient and appropriate for the type of development.
3.2 Heritage Conservation	No	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This amendment is potentially inconsistent with this direction because signage may detract from the heritage significance of individual heritage items or heritage conservation areas.</p> <p>It is considered that the inconsistency with this direction is of a minor nature. Regularising the size and location of the A-frame signage on footpaths should have minimal visual impact on heritage items.</p>
4.1 Flooding	No	<p>Some of the commercial zones within Lake Macquarie LGA are susceptible to high hazard flood and future development must be in accordance with the <i>NSW Flood Prone Land Policy</i>. The placement of A-frame signage on footpaths in flood prone areas is inconsistent with this direction.</p> <p>Consultation with Biodiversity Conservation Division to determine consistency with this direction is not required because the development controls for A-frame signage on footpaths under Schedule 2, Exempt Development specify that A-frame signs must be relocated within the business premises when hazardous weather events occur.</p> <p>It is considered that the inconsistency with this direction is of a minor nature.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	No	<p>The objective of this direction aims to reduce risk to life and property from bushfire. This direction requires an LEP to have regard for Planning for Bushfire Protection, amongst other matters.</p> <p>The proposal is inconsistent with the direction (2)(b) because it permits the placement of A-frame signage in bushfire prone locations.</p> <p>This inconsistency is considered to be of minor significance because the exempt development provisions controls stipulate that the A-frame signs must not be placed on bush fire prone land, unless constructed of non-combustible materials, which will minimise bushfire risk. Consultation with the NSW RFS is not required in this instance.</p>
7.1 Business & Industrial Zones	Yes	<p>The planning proposal will support the viability of identified centres, A-frame signage on footpaths will provide additional exposure to businesses.</p> <p>The planning proposal is consistent with this direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Aims to provide streamlined assessment processes for development that complies with specified development standards.	Yes	<p>A-frame signage is not listed as a sub-category under this SEPP.</p> <p>Currently a DA is required for this type of signage.</p>
State Environmental Planning Policy (Transport & Infrastructure) 2021	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services.	Yes	No changes to infrastructure are proposed

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
State Environmental Planning Policy (Industry & Employment) 2021	<p>Aims to ensure that signage is compatible with the desired amenity and visual character of an area and provides effective communication in suitable locations.</p> <p>Chapter 3 - Clause 3.8 of State Environmental Planning Policy (Industry and Employment) 2021 indicates that advertising is prohibited within heritage areas.</p> <p>Clause 3.4(2) provides further information with regard to placement of signage:</p> <p><i>“This Chapter does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Chapter.”</i></p>	Yes	Providing standard design and locational requirements for A-frame signage ensures that it is compatible with the amenity and character.

4 Site-specific assessment

4.1 Environmental

The placement of A-frame signs on footpaths will not impact on critical habitat, threatened species populations or ecological communities.

Flooding

The placement of A-frame signage on footpaths could create hazard and potential risk to people and property. The controls provided within Schedule 2 will ensure that the signs will be removed during hazardous weather.

Consultation with the Biodiversity Conservation division is not recommended to determine consistency with this Direction.

Bushfire

The placement of A-frame signage could create hazard and potential risk to people and property. The controls provided within Schedule 2 will ensure that the signs will be constructed of non-combustible materials to reduce the risk of bushfire.

Consultation with the Rural Fire Services is not recommended to determine consistency with this direction.

Heritage

Standardising the size and location of the A-frame signage on footpaths should minimise any impact on heritage items or the curtilage of buildings within heritage conservation areas.

4.2 Social and economic

Placing controls on how and where A-frame signage on footpaths can be located will ensure that visual amenity is not impacted and will minimise risks for pedestrian and vehicle safety.

A-frame signage will promote business and provide additional exposure providing economic benefits to businesses in the LGA.

4.3 Infrastructure

All commercial centres are adequately serviced. No additional infrastructure is required as a result of this planning proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 days.

The exhibition period proposed is considered appropriate, and has been conditioned as part of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW – placement of A-framed signs adjacent to state roads

6 Timeframe

Council proposes a 9-month time frame to complete the LEP and this is supported.

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

7 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 for the inclusion of A-frame signage on footpaths within Schedule 2 Exempt Development, the Department recommends that Council be authorised to be the Local Plan-Making Authority for this proposal.

8 Assessment summary

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

- Standardising the design and locational requirements for A-frame signage ensures that it is compatible with the amenity and character of centres; and
- It will support business to grow as it provide exempt provisions for the placement of A-frame signage on footpaths to increase exposure opportunities.

9 Recommendation

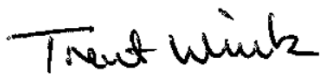
It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.2 Heritage, 4.1 Flooding and 4.3 Planning for Bushfire Protection are minor.

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

1. The planning proposal is to be updated to:
 - Update *Section B Relationship to strategic planning framework* and provide an assessment against the Hunter Regional Plan 2041.
 - Update *Section 8 heritage* and make reference to State Environmental Planning Policy (Industry & Employment) 2021 instead of SEPP 64, which has been repealed.

Prior to commencing community consultation, the planning proposal is to be revised to address this condition.
2. Consultation is required with the following public authorities to ensure consistency with relevant policy, there is no other alternative but to consult with the following agencies:
 - Transport for NSW – Location of A-frame signs on Footpaths that may adjoin state roads
3. The planning proposal should be made available for community consultation for a minimum of 20 days.
4. The planning proposal must be exhibited within 4 months from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.

 21/12/22

Trent Wink

A/Manager, Central Coast and Hunter Region

Assessment officer

Chris Ferry
Planning Officer, Central Coast and Hunter Region
4927 3203