

**Planning Proposal**  
**Administrative Amendment - Schedule 2 Exempt Development -**  
**Placement of A-frame signage on a footpath**  
**Lake Macquarie City Council**  
**Draft Amendment No. xx to Lake Macquarie Local Environmental Plan**  
**2014**  
**Pre Gateway version**

<b>Local Government Area:</b>	Lake Macquarie City Council (LMCC)
<b>Name of Draft LEP:</b>	Lake Macquarie Local Environmental Plan (LMLEP) 2014 (Draft Amendment No. xx)
<b>Subject Land:</b>	Local Government Area Commercial zones (B1 Neighbourhood Centre; B2 Local Centre; B3 Commercial Core; B4 Mixed Use; B7 Business Park)
<b>Land Owner:</b>	Lake Macquarie City Council
<b>Applicant:</b>	Lake Macquarie City Council
<b>Folder Number:</b>	F2016/01432
<b>Date:</b>	8 February 2022
<b>Author:</b>	Harry Drewer - Strategic Planner

<b>Other Attachments:</b>	<b>Attachment No.</b>	<b>Details</b>
	1	Draft Exempt Criteria for A-frame Signage

## Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) in order to amend Schedule 2 – Exempt Development for; *A-framed signage located on footpaths* with exempt provisions.

## Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the LMLEP2014 by:

Amendment Applies to	Explanation of provision
Addition to Schedule 2 Exempt Development	<p>A-framed signage on footpaths.</p> <p>Must abide by exempt provisions:</p> <ol style="list-style-type: none"> <li>(1) Businesses must hold current 'public liability insurance' of \$20 million.</li> <li>(2) A-frame displays are to be carried out by commercial businesses within commercial zones only.</li> <li>(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.</li> <li>(4) The A-framed sign is to have a maximum height of 1200mm and width of 600mm.</li> <li>(5) A 2.0 metre wide unobstructed section of footpath from the frontage of a building is to be maintained at all times.</li> <li>(6) Must be located no closer than 600mm to the back of kerb</li> <li>(7) Maximum of one A-framed sign per commercial business positioned no nearer than 3 metres from another A-framed sign.</li> <li>(8) Not permitted within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.</li> <li>(9) The A-framed sign is not to obstruct or pose a risk to pedestrian or vehicular traffic.</li> <li>(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.</li> <li>(11) The A-framed sign must be removed during hazardous weather</li> <li>(12) The A-framed sign must be removed from the footpath outside of the approved operating hours of the related business</li> </ol>

	<p>(13) The A-framed sign must not display offensive, violent, obscene or discriminatory text or graphics.</p> <p>(14) Text of the A-framed sign must relate to the business conducted on the premises or goods/services sold at the premises.</p> <p>(15) The A-framed sign must not be illuminated or incorporate any moving components.</p> <p>Note: Other approvals may be required under the Local Government Act 1993 and the Roads Act 1993.</p>
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## 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 not the result of a strategic study or report. The purpose of the Planning Proposal is to allow exempt development for placement of A-frame signage within Schedule 2 of LMLEP2014 accompanied by exempt provisions.

From searching Council's customer enquiry database, it has become apparent that signage placed on a footway has been an ongoing issue of complaint or enquiry to Council. Within a one-year period Council received over 130 customer enquiries or complaints in regards to placement of signage on a footpath or road reserve. However, these figures are only a broad estimate with Council receiving consistent phone enquiry over eligibility for placement of A-frame signage on a footpath by business owners. Generally, feedback to customers is that no policy framework exists for placement of A-frame signage on a footpath other than through a development application.

For business owners to formally obtain consent in order to display an A-frame sign a development application is to be submitted. A-frame signage is defined as *signage* and is permitted with consent within commercial zones under LMLEP2014. Generally, placement of A-frame signage is attached as a condition within the primary development consent. Confusion over the need for this type of consent within the business community has led to a proliferation of signage throughout the LGA, with many businesses not containing consent. Furthermore, this proliferation has increased the risk of injury and damage to property due to unclear development controls. Including A-frame signs on footpaths in Schedule 2 Exempt Development with accompanied exempt criteria will enable a less cumbersome, confusing and structured approach for businesses and the community.

This will enable an opportunity for businesses to increase their exposure to customers through placement of an A-frame signage advertisement promoting sales of goods, which will align with the aims and objectives of LMCC's Local Strategic Planning Statement.

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

In order to achieve the intended outcome, the following options were considered:

Option 1 – Incorporating placement of A-frames signs on footpaths as exempt within LMCC Local Approvals Policy (LAP).

Consideration was given to incorporate A-frame signage as an exempt activity within the framework of the Local Government Act (LG Act) Section 68. Within the LG Act, there laid capacity to include A-frame signage under class Part E2. However, A-frame signage is also a form of *signage* that requires assessment under LMLEP2014, requiring submission of a development application. Allowing exempt development under the LAP would conflict with the requirement to submit a development application. It was therefore considered more appropriate to allow exempt development under the LMLEP to amend this requirement.

Option 2 – Establishing an application form to process A-frame signage as development requiring consent under LMLEP2014

Consideration was given to establishing a streamline application process to regulate A-frame signage placed on a footpath. This approach would have enabled Council to regulate the amount of A-frame signage within commercial zones. However, this framework had the potential to burden businesses with existing A-frame signage to have to submit a development application and lead to potential conflict with the business community and Council. Furthermore, an application process applied to all types of A-frame signage was seen as cumbersome and would place unnecessary strain on Council resources.

Option 3 – Allow exempt development for placement of A-frame signs on footpaths within commercial zones and industrial zones pursuant to LMLEP 2014

Consideration was given to allow the exempt criteria to extend placement of A-frame signage within both commercial and industrial zones as to provide competitive advantage to the region's businesses. However, after reviewing the nature of industrial zones throughout the region the decision was reached to remove industrial zones from the exemption criteria. The regions industrial zones are characterised by heavy vehicle/freight traffic, loading of products and load and high pedestrian activity. Permitting A-frame signage as exempt development within these areas creates potential risks such as vision impairment to motorists, or become a potential obstacle or barrier when unloading product or load.

Option 4 – No change to the current A-frame signage application framework

This option would equate to no change to LMCC current development application process for placement of A-frame signage on a footpath. This option is not recommended due to the confusion this process puts onto business owners leading to ad-hoc placement of A-frame signage increasing the risk to pedestrians. Furthermore, the current development application process to place an A-frame sign on a footpath is seen to be cumbersome and a disincentive to businesses.

Option 5 - Allow exempt development for placement of A-frame signs on footpaths within commercial zones pursuant to LMLEP 2014

This was the preferred option. Permitting A-frame signage as exempt development in commercial zones, with appropriate exempt criteria, will clarify when development consent is required and enable a less cumbersome, confusing and structured approach for the business community. Areas that are not in a commercial zone will still require a Development Application.

## **Section B – Relationship to Strategic Planning Framework**

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

#### Hunter Regional Plan 2036 (HRP)

The HRP sets out a vision for the Greater Newcastle Region to connect communities through a range of housing choices, employment, amenities and services. This Plan encourages investing in a diverse economy promoting innovation and growth concentrated in centres throughout the region. The proposal is consistent with the aims and strategic direction of the HRP:

- Grow and connect service-based industries to support regional communities and provide a competitive edge to business
- Identify and manage the supply of industrial lands to support manufacturing, construction, transport and supply chain industries
- Provide the right regulatory environment to support small business

#### Greater Newcastle Metropolitan Plan 2036 (GNMP 2036)

The Plan 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. The Plan also helps to achieve the vision set in the Hunter Regional Plan 2036 – for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The proposal is consistent with the strategies in the GNMP 2036:

- Strategy 7: Respond to the changing land use needs of the new economy;
- Strategy 8: Address changing retail consumer demand; and
- Strategy 11: Create more great public spaces where people come together.

With the proposed changes in the Local Approvals Policy, these changes will help promote vibrancy and a mix of uses in centres.

### **4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?***

#### Local Strategic Planning Statement

The Draft Lake Macquarie City Local Strategic Planning Statement describes how Lake Macquarie City Council will achieve the City's vision and uphold the community's values, through strategic planning.

The subject proposal is consistent with the Strategic direction of the LSPS, specifically actions 1.9, 3.6 and 3.8 as it will support small businesses and community groups undertake placemaking and street activations, as well as improve opportunities for business growth and customer attraction.

### **5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

**Table 1: Assessment of the Planning Proposal against relevant SEPPs**

SEPP	Relevance	Implications
<b>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</b>	Aims to provide streamlined assessment processes for development that complies with specified development standards.	A-frame signage is not a specifically listed sub-category within the SEPP, with determination under the LMLEP2014.
<b>State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</b>	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services.	The amendment is consistent with the SEPP. The amendment is minor in nature and will not warrant changes to the delivery of infrastructure.
<b>State Environmental Planning Policy (Industry &amp; Employment) 2021</b>	The SEPP aims to ensure that signage is compatible with the desired amenity and visual character of an area, and provides effective communication in suitable locations.	The amendment is consistent with Chapter 3 (Advertising and Signage) of the SEPP. The exempt criteria ensures signage is compatible with the desired amenity and character of the area.

**6. *Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?***

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

**Table 2: Consistency with applicable Section 9.1 Ministerial Directions**

Ministerial Direction	Objective/s	Consistency / Comment
1.1 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. The amendment is consistent with the strategic directions set by both the Hunter Regional Plan and Greater Newcastle Metropolitan Plan. The amendment will facilitate orderly economic growth by providing increased exposure for business to advertise and sell goods, therefore, applying positively to the vision and goals of the plan.

Ministerial Direction	Objective/s	Consistency / Comment
1.3 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The objective of the direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The amendment will be consistent. A-frames and, are proposed to be exempt development and will be categorized as low impact development if exempt criteria cannot be met, this will not require concurrence or referrals, and does not identify development as designated development.
1.4 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.	The direction is to discourage unnecessarily restrictive site-specific planning controls. The amendment is consistent with the direction (4)(c). The amendment will not impose additional development standards to those already contained within the LMLEP 2014.
3.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This amendment is <b>inconsistent</b> with this direction. SEPP 64 stipulates that advertisement is prohibited within heritage areas (excluding railways). However, SEPP64 states:  <i>This Policy 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 Policy.</i>
4.1 Flooding	The objectives of this direction are to: (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.	The objective of the direction is to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy. The proposal is <b>inconsistent</b> . Commercial zones throughout the LMCC LGA are susceptible to high hazard flooding and therefore, will conflict with direction (6)(a).  However, the proposed exempt development controls stipulate that the A-frame signs must be relocated within the commercial premises when hazardous weather events occur.  The Director-General's concurrence is requested regarding this direction of <b>minor significance</b> (9)(b) due to the exempt criteria controls.

Ministerial Direction	Objective/s	Consistency / Comment
4.3 Planning for Bushfire Protection	<p>The objectives of this direction are to:</p> <p>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) encourage sound management of bush fire prone areas.</p>	<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. The proposal is <b>inconsistent</b>. Commercial zones throughout the LMCC LGA are susceptible to bushfire risk of buffer, vegetation category 1 and 2. Therefore, the amendment conflicts with the direction (5)(b) introduce controls that avoid placing inappropriate developments in hazardous areas.</p> <p>However, exempt 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. In accordance with this direction, the planning proposal will be referred to the RFS.</p> <p>This inconsistency is considered to be of <b>minor significance</b> and the concurrence of the Director General is requested for this direction.</p>
4.5 Acid Sulfate Soils	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>The direction requires Councils to consider the Acid Sulfate Soils Planning Guidelines and include provisions to manage the adverse impacts which are consistent with the Acid Sulfate Soils model in the Local Environmental Plan. The amendment is consistent with this direction. A-frame signage may be placed on land identified with ASS levels. However, the placement of A-frames will not disturb or penetrate soils as signs are required to be placed on footpaths, which are concreted.</p>
4.6 Mine Subsidence and Unstable Land	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. The proposal is consistent with this direction. The placement of A-frame signage will not compromise stability of land due to mine subsidence. All associated structures will be of minimal weights, resulting in minor impacts. The NSW Subsidence Advisory will be consulted during the exhibition period.</p>



Ministerial Direction	Objective/s	Consistency / Comment
7.1 Business & Industrial Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified centres.</p>	<p>An aim of this direction is to protect employment land in business and industrial zones. The amendment is <b>consistent</b> with the direction, as it will increase the total potential floor space area for employment uses and related public services in business zones.</p> <p>The placement of A-frame signage will be controlled as to allow a 2 metre unobstructed pathway for pedestrians from the front façade of a commercial premises and 600mm for the roadside kerb. These dimensions will not hinder business activity or reduce employment uses or public service. Furthermore, the dimensions of the A-frame sign will be considerably small (1000mm x 650mm) and take up relatively minimal floor space within commercial zones.</p>

## Section C – Environmental, Social and Economic Impact

### 7. *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 Planning Proposal does not seek to allow the placement of; A-frame signs within environmental zones, which could impact on; critical habitat, threatened species, populations or ecological communities. The Planning Proposal seeks to allow exempt development of the placement of A-frame signs on footpaths within commercial zones that are heavily urbanised.

Therefore, the likelihood of ecological communities being adversely affected is considerably low.

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

The amendment will not have major environmental implications. Below are minor considerations:

#### ***Flooding***

A large proportion of commercial land within the LGA is identified to be within a low to high flood level. The placement of A-frame signs could pose potential risk to people or damage to property in the situation of a flood event. However, as stipulated within the exempt criteria:

- The A-frame must be secured as not to pose a risk to pedestrian/vehicle traffic and removed during hazardous weather.

This control will enforce a practical control that will substantially minimize the risk of A-frame advertisement signage being swept away by being secured indoors whilst flood events occur.

This minimises the risk to people and potential damage to property if a flood event was to occur.

### **Bushfire**

Bushfire risk is evident across the majority of Lake Macquarie. The following controls are included to minimise risk if a bushfire were to occur. Feedback will also be sought by the RFNSW for the proposed changes.

The control below enforces proactive risk management criteria that will minimise the potential for fuel when fire events occur:

- Must not be on bush fire prone land, unless constructed of non-combustible materials.

### **Heritage**

SEPP 64 stipulates: *Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions: Heritage area (excluding railway stations).*

However, SEPP64 also highlights that:

*This Policy 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 Policy.*

It is therefore sought to allow A-frame signage within heritage areas as they are of minor impact to the significance of a heritage area and are temporary. Furthermore, A-frame signage is currently prevalent throughout heritage conservation areas.

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

### **Pedestrians and risk**

A-frame advertisement signage can pose a risk to pedestrians and vehicle traffic due to their dimensions and design if placed in an obstructing fashion, such as being placed within a main pedestrian thoroughfare. The exempt criteria provides a best practice placing of A-frame signage to minimise these risks:

- A 2.0 metre wide unobstructed section of footpath from the front entrance facade of a commercial building is to be maintained at all times as to not oppose a risk to pedestrian/vehicle traffic.
- Must be located no closer than 600mm to the back of kerb.
- Maximum of one A-framed sign per commercial business positioned no nearer than 3 metres from another A-framed sign.
- Not permitted within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- A-frame must not be positioned over or above utility services (ventilation, drainage, electrical cable, or telecommunication).
- The A-frame must be secured as not to pose a risk to pedestrian/vehicle traffic and removed during hazardous weather.

- The A-framed sign must be removed from the footpath outside of the approved operating hours of the related business.

#### **Proliferation of signage impairing on visual amenity**

Allowing Schedule 2 – Exempt Development could impair visual amenity to business zones by proliferation of A-frame signage. However, the following exempt criteria will enforce strict control to minimise this issue:

- An A-frame sign must not be located on a footpath adjacent to a classified road as defined in the *Roads Act 1993*.
- An A-frame sign must not be placed on Crown Land.
- Maximum of one A-framed sign per commercial business positioned no nearer than 3 metres from another A-framed sign.
- Not permitted within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- A-frame must not be positioned over or above utility services (ventilation, drainage, electrical cable, or telecommunication).
- The A-framed sign must not display offensive, violent, obscene or include discriminatory text or graphics or be illuminated or incorporate any moving components.

Enforcement of A-frame signage will be implemented through public complaints and periodic reviews of hot spot areas. Council will have vested powers to remove and impound A-frame signage that does not meet the exempt criteria list.

#### **Economic:**

A-frame advertisement is beneficial for business. The main objective of the placement of A-frames is to promote businesses by exposing a brand name, product or contact information.

#### **Section D – State and Commonwealth Interests**

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

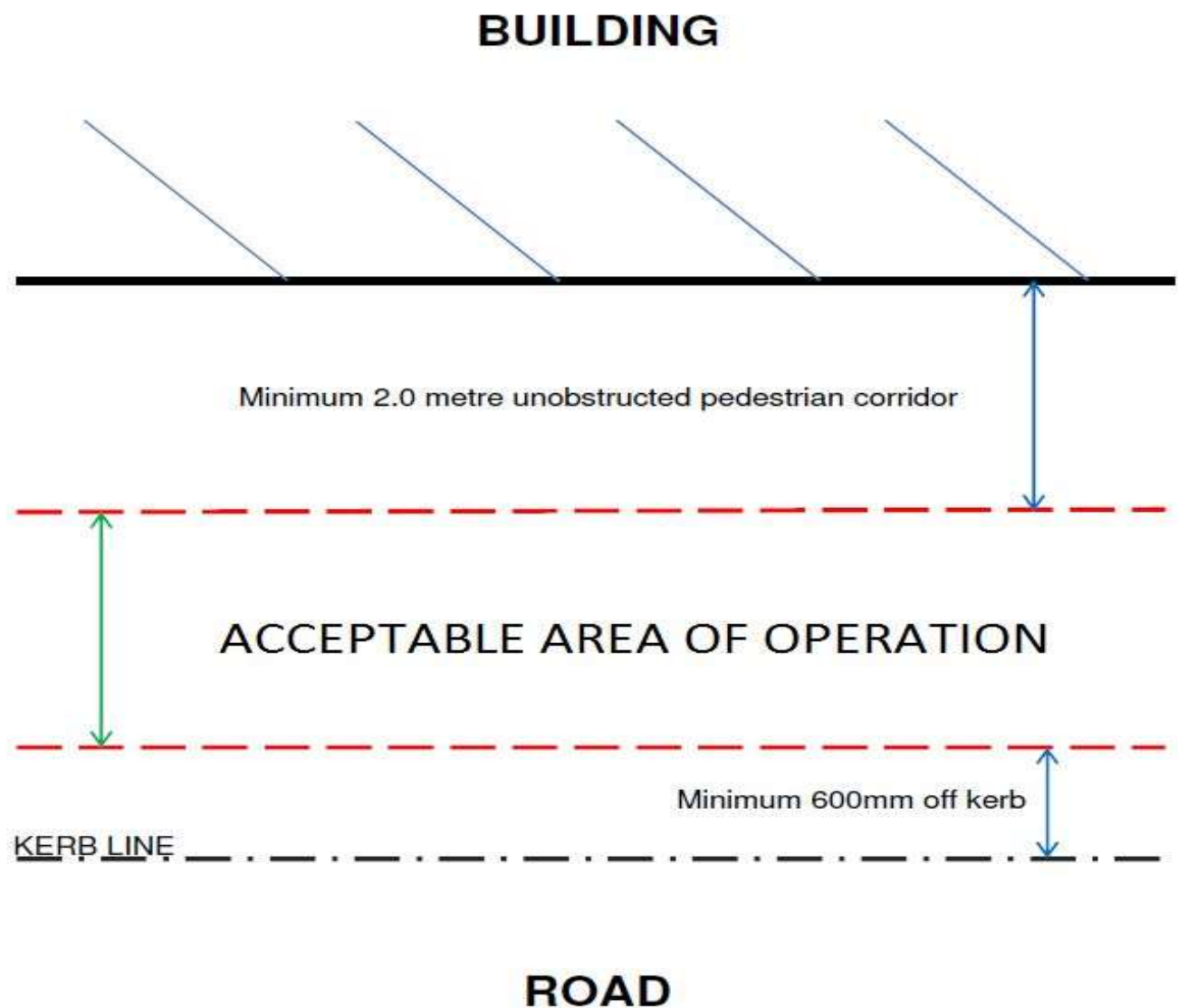
All commercial zones are adequately serviced for the proposed development.

##### **11. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Consultation with State and Commonwealth public authorities will be determined as part of the Gateway determination. Council recommends consultation with the following authorities:

- NSW Rural Fire Service
- Transport for NSW
- Hunter Water
- Communication providers (Optus, Telstra)
- Ausgrid
- NSW Department of Planning, Industry and Environment

**Figure 1 – Proposed dimensions for placement of A-frame signage on a footpath**



## **Part 5 – COMMUNITY CONSULTATION**

It is recommended that the Planning Proposal be publicly exhibited for a period of at least 28 days.

**Part 6 – PROJECT TIMELINE**

<b>Action</b>	<b>Timeframe</b>
Anticipated commencement date (date of Gateway determination)	December 2022
Anticipated timeframe for completion of required technical information	January 2023
Timeframe for government agency consultation (pre exhibition)	February 2023
Public exhibition (commencement and completion dates)	March 2023
Date of Public hearing (if required)	April 2023
Consideration of submissions	April 2023
Timeframe for government agency consultation (post exhibition if required)	April 2023
Post exhibition planning proposal consideration / preparation	May 2023
Report to Council	June 2023
Submission to Department to finalise LEP	July 2023
Date RPA will make Plan (if delegated)	August 2023
Date RPA will forward to the Department for notification (if not delegated)	August 2023

## **Attachment 1 – Draft Exempt Criteria for A-frame Signage**

### **Schedule 2 Exempt development**

#### **Placement of A-framed signs on footpaths**

**A-framed or sandwich board signs are exempt from the need for approval provided that they comply with the following criteria:**

- (16) Businesses must hold current 'public liability insurance' of \$20 million.
- (17) A-frame displays are to be carried out by commercial businesses within commercial zones only.
- (18) 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.
- (19) The A-framed sign is to have a maximum height of 1200mm and width of 600mm.
- (20) A 2.0 metre wide unobstructed section of footpath from the frontage of a building is to be maintained at all times.
- (21) Must be located no closer than 600mm to the back of kerb
- (22) Maximum of one A-framed sign per commercial business positioned no nearer than 3 metres from another A-framed sign.
- (23) Not permitted within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- (24) The A-framed sign is not to obstruct or pose a risk to pedestrian or vehicular traffic.
- (25) The A-frame must be secured and positioned so as not to pose a hazard or inconvenience to pedestrians especially those with a disability.
- (26) The A-framed sign must be removed during hazardous weather
- (27) The A-framed sign must be removed from the footpath outside of the approved operating hours of the related business
- (28) The A-framed sign must not display offensive, violent, obscene or discriminatory text or graphics.
- (29) Text of the A-framed sign must relate to the business conducted on the premises or goods/services sold at the premises.
- (30) The A-framed sign must not be illuminated or incorporate any moving components.

**Note:** Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

**Note:** An "A-frame sign", also known as a sandwich board or portable sign is a freestanding advertisement structure of either two advertising boards supporting each other in an "A" configuration or one advertising board supported by one or more posts in an "A" configuration.