

OMA Submission

To

The Green Paper

Prepared by
Urban Concepts

In association with
Outdoor Media Association

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OMA SUBMISSION GREEN PAPER

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EXECUTIVE SUMMARY

This submission on the New Planning System for NSW Green Paper (hereafter referred to as The Green Paper) has been prepared on behalf of the Outdoor Media Association of Australia (hereafter referred to as the OMA). The submission has been prepared by Belinda Barnett, Director Urban Concepts in consultation with the members of the OMA.

The submission provides:

- An overview of the OMA and its members;
- The role of outdoor advertising as a land use;
- The planning process that applies to outdoor advertising developments within NSW;
- The key planning issues confronting the development of outdoor advertising assets in NSW; and
- Details the OMA's response to The Green Paper which was released on 14 July 2012.

In NSW the outdoor advertising industry makes the following contributions to the state economy:

- The industry donates around \$15million each year in free advertising space for charities and not-for-profit organisations, a large proportion of which is in NSW. Invariably, donations from the outdoor advertising industry enable these organisations to continue their service to the community – by increasing community awareness of their services, recruiting volunteers and soliciting donations from the public. These outcomes would otherwise be very difficult to achieve on their limited marketing budgets.
- The industry provides and maintains over 7,000 items of public infrastructure in NSW, such as pedestrian bridges, bus shelters, kiosks, bins and public toilets. This infrastructure is valued at \$90million and provides a considerable saving for Local and State Governments which would normally need to fund the provision of these assets. These assets also provide an income stream to State and Local Governments.
- Outdoor advertising assets provide an income stream for private land owners in NSW.
- In 2010 the industry contributed \$127.5million to GDP.

It is noted that the OMA made a submission to the first round of consultation that was held in November 2011. This submission builds on the views that were expressed by the OMA at that time.

The OMA applauds and supports the planning reform process, with its new focus on strategic land use planning and a more streamlined development approval process.

The OMA is committed to ensuring that the planning reform provides for its members a planning regime that:

1. Recognises outdoor advertising signage as a legitimate land use. The new planning system must enable the outdoor advertising industry to operate in a fair and objective manner free of the bias and philosophical judgment that remains evident in many Local Government environmental planning instruments.
2. Provides a set of fair and reasonable development standards that are appropriate for the signage land use and which acknowledge the introduction of digital technology.
3. Promotes the responsible display of outdoor advertising signage within urban centres and along transport corridors.

The provisions that are embodied in State Environmental Planning Policy No.64 Advertising and Signage (SEPP 64) which was gazetted in March 2001 provided a uniform set of parameters for both the outdoor advertising industry and Consent Authorities at State and Local Government level.

SEPP 64 is the primary environmental planning instrument in NSW that applies to advertising and signage proposals whether they are for business signage, building identification signage or third party advertising signage. SEPP 64 was reviewed and amendments gazetted on 3 August 2007 to recognise the suitability of road and rail transport corridors for the display of advertising signage. In recognising the suitability of transport corridor land for the display of advertising, the review resulted in a number of key changes, namely:

- The introduction of provisions for development applications for advertising being progressed by the State Government Agencies that own road and rail assets, namely the NSW Roads and Traffic Authority (RTA, now referred to as the RMS) and RailCorp.
- The introduction of provisions to recognise the NSW Minister for Planning as the consent authority for development applications being progressed by the RMS and RailCorp.
- A road safety concurrence role for the RMS.
- The introduction of a public benefit contribution test for development applications by or on behalf of RMS and RailCorp or on private land requiring the concurrence of the RMS.
- The introduction of Transport Corridor Advertising and Signage Guidelines to supplement the design and development standards contained in the primary instrument.

In 2008, the former NSW Department of Planning (now the NSW Department of Planning and Infrastructure) in conjunction with the OMA and the RMS commenced its third review of SEPP 64 and the associated Transport Corridor Guidelines. The aim of the review was to give more relevance to the state environmental planning instrument by:

- Recognising the advances that are occurring in technology with the introduction of Light Emitting Diodes or LED displays.
- Addressing perceived prejudices in the assessment and approval process for development applications being progressed by private landowners as opposed to those relating to transport corridor land being progressed by the former RTA and RailCorp.
- Providing a framework for the imposition of public benefit provisions by state and local consent authorities.
- Rationalising development standards contained within SEPP 64 that fail to recognise industry requirements or are superfluous to how the industry operates.

The introduction of SEPP 64 in 2001 was vital to restore viability to the outdoor media industry in NSW. Prior to its introduction in 2001 there was a strong bias against general and third party advertising as a land use. The introduction of SEPP 64 enabled the industry to develop and manage an asset base against clear criteria and with certainty. The development of the asset base has primarily occurred through the activities of State Government Agencies, with RailCorp and the NSW RMA being major developers of outdoor advertising assets in NSW. These assets provide substantial revenue back to the NSW Treasury through competitive tender and are managed on behalf of the State Government by OMA members.

The review of the NSW Green Paper is indicating that the reform process will see the replacement of state environmental planning instruments as we know them by a hierarchy of strategic plans at the state, regional and local levels which are both statutory and non-statutory in status.

What is not clear to the OMA and which is of paramount concern is how the suite of planning controls that pertain to outdoor advertising in SEPP 64 and the supporting Transport Corridor Advertising and Signage Guidelines will be addressed in the new legislation.

If SEPP 64 is to be repealed then it is essential that it is replaced by a top down direction from the State Government that reinforces and builds on the position established by SEPP 64 that outdoor advertising is a viable and legitimate land use. This position should be reflected in each level of strategic planning and in the development assessment process.

The recommendations of the OMA are detailed in Table 1.

TABLE 1 – OMA Recommendations for the Planning Reform

Propose Reform	OMA Recommendations
<p>State Planning Policies</p> <ul style="list-style-type: none"> - Practical High Level Advice <p>10-12 Policies</p> <ul style="list-style-type: none"> • Housing supply and Affordability • Employment • Biodiversity Conservation • Agricultural Resources • Mining and Petroleum Extraction • Coastal Management • Retail Development • Tourism • Regional Development • Infrastructure 	<p>A high level statement is required that acknowledges macro-scale planning principles relevant to the signage and advertising landuse:</p> <ul style="list-style-type: none"> • The role that signage plays in supporting Australian business and its competitiveness in global markets. • The role that signage plays in brand recognition imperative to the growth of social media and internet retail. • The role that signage plays in way finding and providing support for local business and tourism. • The role of signage in providing a revenue stream to facilitate infrastructure delivery by State Government Agencies.
<p>Sub Regional Development Plans</p>	<ul style="list-style-type: none"> • Introduce a mandatory definition or signage, advertisements, advertising structures, LED signage and advertisements, Transport Corridors, Road Corridors and Rail Corridors. The OMA supports the current definitions of signage prescribed under Clause 4 of SEPP 64. With respect to a definition for LED signage and advertisements it is recommended that this be developed in conjunction with the OMA. • Provide a mandatory requirement for signage, advertisements and advertising structures to be a permissible land use in all land use zones. • Specify mandatory requirements for signage, advertisements and advertising structures that can be considered as Exempt, Code Complying and Merit Based Development. • Recommend that merit based development assessment be used in preference to blanket prohibitions as currently exist under Clause 10 of SEPP 64.

Propose Reform	OMA Recommendations
<p>Local Land Use Plans</p> <ul style="list-style-type: none"> - Spatial Land Use Plan <ul style="list-style-type: none"> - Development Guidelines and Performance Monitoring 	<ul style="list-style-type: none"> • Standardised zonings should recognise signage, advertisements and advertising structures as a permissible use with consent across all spatial zones. • Spatial zones where signage and advertisements and advertising structures can be considered as code complying should be specified. • Spatial zones where signage and advertisements and advertising structures can be considered as merit based development should be specified. <ul style="list-style-type: none"> • SEPP 64 Schedule 1 Assessment Criteria and the Transport Corridor Guidelines provide a practical and relevant set of development assessment criteria for signage. These documents should be used as the basis for developing a mandatory guideline document that can be issued to all Local Councils in NSW to streamline and standardise the assessment of signage proposals. • The mandatory guideline document should specify development standards as prescribed in SEPP 64 for wall, bridge, free standing, roof, building wrap and special promotional signage. • RMS road safety provisions for LED digital signage operation must be finalised as a matter of priority and incorporated into the mandatory guideline document. • RMS concurrence provisions should only be retained for signage over 45 square metres in area. • Concurrence provisions relating to all other signage that falls under Clause 17 and 18 of SEPP 64 should be delegated to Local Councils. The RMS should develop a set of assessment criteria modelled on the provisions contained in Section 3 of the Transport Corridor Guidelines which can be used by Local Councils and which incorporate provisions for LED technology.

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Propose Reform	OMA Recommendations
<ul style="list-style-type: none"> - Smart Consent Conditions - Merit Based Appeals and DA Modifications 	<ul style="list-style-type: none"> • All moving, flashing and variable messaging signage other than Exempt Development or Code Complying to be merit based. • Signage that does not fall under Exempt or Code Assessable provisions and is located in the following spatial zones to be merit based: <ul style="list-style-type: none"> ○ Residential ○ Suburban Character ○ Open Spaces ○ Heritage Conservation ○ Scenic/Environmental Protection • The OMA would recommend that a standard consent term of 15 years be introduced for all development applications pertaining to signage and advertising related applications not utilising LED technology and a 20 year term be applied for advertisements and signage that utilise LED technology. • The OMA <u>would not</u> support the introduction of any consent conditions that restrict content. Content is currently regulated by the industry and this should be retained. • The OMA supports the retention of Section 82A and 96A modification provisions. • The OMA supports the retention of developer proposed rezoning applications and the increased role of joint regional planning panels in this process.

Propose Reform	OMA Recommendations
Infrastructure Planning and Coordination	<ul style="list-style-type: none"> • The OMA would support the replacement of the current public benefit provisions contained within the SEPP 64 with a Standard Infrastructure Contribution that was levied on general advertising signage. This levy should be based on the <u>construction value</u> of the sign and not the commercial revenue returned by the sign. • The OMA would recommend that consideration be given to an annual licencing arrangement for advertisements and signs similar to the system that existed under Ordinance 55 and the Local Government Act 1993 prior to the introduction of SEPP 64. An annual licencing fee is considered by the OMA to be preferable to a one off monetary contribution.
Public Participation Charter	<ul style="list-style-type: none"> • The OMA would recommend that a mandatory list of stakeholders be developed and maintained by the Department of Planning and Infrastructure. This list of stakeholders should be available to all Local Councils and these stakeholders should be invited to participate in all plan making at the State and Local level. The OMA would seek inclusion on such a list. • In the event that a stakeholder database is not mandated then The OMA would ask that Local Councils and State Agencies be required to consult with The OMA on all plans that look to regulate and control the display of signage and advertisements.

1. Introduction

1.1. Introducing The Outdoor Media Association (OMA) and its Members

The OMA is the peak industry body which represents most of Australia's outdoor media display companies and production facilities, and some media display asset owners.

An important part of the OMA's activities is to work with Federal, State and Local Governments to ensure that new laws and regulations for outdoor advertising are fair and equitable. The OMA monitors developments in regulations that will affect the industry, oversees policy development and facilitates regulatory committees comprised of experienced industry members.

The OMA supports the reasonable regulation of outdoor advertising and is committed to working with its regulators to ensure that all outdoor advertising signs are located in permissible areas, are well-integrated with the surrounding environment and support local community activities.

The OMA currently represents a number of outdoor media companies specialising in general advertising. These companies include (but are not limited to):

- APN Outdoor
- Adshel
- Bailey Outdoor Advertising
- Bishopp Outdoor Advertising
- Claude Outdoor
- EyeCorp
- GOA
- JC Decaux
- oOh!media
- Outdoor Systems
- Paradise Outdoor Advertising
- Savage Outdoor Advertising
- Tayco Outdoor Advertising
- RailCorp
- RMS

The outdoor media industry is a \$500M industry and holds a 4.5% share of the national advertising budget.

1.2. Why Outdoor Advertising is Important as a Land Use in NSW

In today's busy and fast-paced life, outdoor media is perfect for reaching people on the go. Increasingly, people are spending less time at home, and as a result are less exposed to traditional media like TV, radio, newspapers and magazines. By advertising on outdoor media an advertiser can:

- Launch a brand, build and maintain brand awareness cost-effectively
- Create a high impact advertising campaign to reach mass audiences cost-effectively
- Target specific audiences and markets with high frequency – i.e. shoppers, business travellers, teens, store catchment areas, tourist drive market
- Multiply the effect of other media by reinforcing the message over a longer period
- Provide a 'path to purchase', converting brand awareness into consumer purchase behaviour
- Support the business community and provide commercial strength to the state
- Maximise the income stream of property assets which is particularly important when global financial markets negatively impact on the property market
- Provide employment opportunities across a range of skill levels

In NSW the outdoor advertising industry makes the following contributions to the state economy:

- The industry donates around \$15million each year in free advertising space for charities and not-for-profit organisations, a large proportion of which is in NSW. Invariably, donations from the outdoor advertising industry enable these organisations to continue their service to the community – by increasing community awareness of their services, recruiting volunteers and soliciting donations from the public. These outcomes would otherwise be very difficult to achieve on their limited marketing budgets.
- The industry provides and maintains over 7,000 items of public infrastructure in NSW, such as pedestrian bridges, bus shelters, kiosks, bins and public toilets. This infrastructure is valued at \$90million and provides a considerable saving for Local and State Governments which would normally need to fund the provision of these assets. These assets also provide an income stream to State and Local Governments.
- Outdoor advertising assets provide an income stream for private land owners in NSW.
- In 2010 the industry contributed \$127.5million to GDP.

These contributions should not be underestimated by the Government.

1.3. What makes good Outdoor Advertising?

1.3.1. *Creativity*

Outdoor advertising is recognised globally as the most challenging yet rewarding creative advertising tool. At its heart is the ability for good creative to command total attention and cut through all other stimulus that surrounds a person in the outdoor environment.

1.3.2. *Media*

Outdoor advertising at its best achieves direct communication with consumers;

- where they live, work, play
- where they drive and shop
- where they commute
- where they congregate

With today's marketing strategies being driven by the consumer, who is being exposed to more messages than ever before, outdoor advertising is a proven medium in the mainstream media mix. No other media can match the impact and reach against the investment.

1.3.3. *Production*

Effective outdoor advertising requires strong, high impact graphics, as a key element. The advent of modern print technology and computer generated production has transformed the outdoor media

industry with traditional processes having been either dramatically enhanced or replaced. Advertisers can realise a simple, streamlined process for signs produced to full photographic reproduction quality without major production costs. Production processes available range from screen printing to computer generated large format painting systems, custom made mechanical designs, 3D cut-outs and sign board extensions.

1.3.4. *Environmental Sustainability*

The OMA and its members invest in the development of environmentally sustainable initiatives for the outdoor media industry. These include the recycling of vinyl skins, the development of biodegradable skins, LED illumination, the incorporation of alternative energy sources such as wind and solar and the reuse and recycling of advertising structures.

1.3.5. *Outdoor Medium or the Plant*

Quality plant is part of the outdoor media equation. As urban planning issues and environmental considerations play a bigger role in today's society, so too has outdoor media adapted its place in the landscape. OMA members are constantly working to provide the most suitable presentation of its plant for advertisers and the public. Extensive and ongoing investment effort is undertaken to:

- Develop new quality sites including the latest architectural values along with optimum illumination;
- Upgrade existing sites to a higher minimum quality standard
- Landscape sites to enhance their role in the local environment
- Regularly maintain sites to uphold appearance

1.4. The Benefits of Outdoor Advertising to the Local Community

Outdoor advertising is a cost-effective way for organisations and businesses to advertise their products, services and events. It is also widely used by government bodies to advertise community messages such as road safety messages and health awareness campaigns.

In addition to providing affordable advertising to local businesses, the OMA's members also make contributions back to the community each year.

In 2011, the OMA's members donated \$13 million worth of free advertising space to charities and other not-for-profit organisations. Invariably, donations from the outdoor advertising industry enable these organisations to continue their service to the community – by increasing community awareness of their services, recruiting volunteers and soliciting donations from the community.

Specifically in NSW the industry provides and maintains over 7000 items of public infrastructure (such as pedestrian bridges, bus shelters, kiosks, bins and public toilets) to the value of \$90 million. This provides a considerable saving for Local and State Government agencies who would normally need to fund the provision of these assets within our urban centres, and provides an income stream to those agencies through these assets.

1.5. Forms of Outdoor Advertising

The outdoor advertising industry generally adopts standard formats for advertising signs. These standard formats are used internationally by the outdoor advertising companies. The artwork that is generated by creative agencies for the display on these signs is based on these design ratios.

A common misunderstanding that occurs in the drafting of planning policies such as Development Control Plans or guideline documents for advertising signage by Local Government Authorities is the numerical development standards that are applied to advertisements and signage. Frequently, a Council will look to contain the size of structures in terms of its advertising display area with many policies limiting the area of signs to under 5 square metres.

The illustrations detailed at Figure 1.1 and Figure 1.2 present the advertising formats that are generally applied by the outdoor industry for freestanding, wall and bridge advertisements. The display area is typically greater than 12 square metres. The classifications commonly used are:

- **Spectacular:** Poster displays over 50 square metres in area (standard dimensions are 18.99 metres x 4.45 metres). These are often located on highways and generally illuminated.
- **Supersite:** Large displays around 42 square metres (often 12.66 metres x 3.35 metres). In size. These signs are generally illuminated and located on major arterial roads and national highways.
- **Billboards:** 24 sheet posters, measure 6x3 metres in size and tend to be located mainly on building walls in commercial and industrial areas, along roads and in railway corridors.
- **Super 8:** generally these are illuminated light box signs and measure 6 metres x 3 metres which equates to an advertising area of 18 square metres. They are often mounted on freestanding pylons, walls and bridges.

It is noted that there are times when special promotional, building wrap or printed hoarding signage is used by the industry as part of a high profile advertising campaign. These types of advertisements are recognised under SEPP 64. The provisions that relate to these large scale displays include time limits on the period display to 12 months, consideration only on land that is zoned commercial, business and industrial and stipulations that corporate branding is to be limited to 5% of the total advertising copy.

In addition to the above formats there are OMA members that specialise in the development of street furniture advertising assets. Advertising displays are often integrated into the shelter structure at a bus stop, kiosk, public toilet or telephone booth. The displays are frequently scrolling units that are illuminated.

Street furniture displays are commonly 1.8 metres x 1.2 metres or 1.5 metres x 1 metre in size and are backlit. They can be freestanding units or integrated into the street furniture structure. Photographs illustrating the various forms of outdoor advertising follow.



A Spectacular Structure



A Supersite Structure



A Billboard (Poster) Structure



A Super 8 Structure (6m x 3m)



A Street Furniture Structure – Kiosk (1.8mx1.2m)



A Street Furniture Structure – Bus Shelter (1.8mx1.2m)

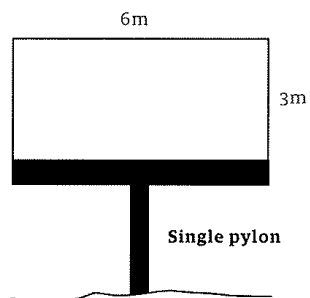


A Street Furniture Structure – Public Toilet (1.8mx1.2m)

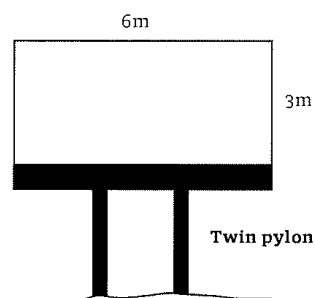
FIGURE 1.1- Advertising Formats

The outdoor advertising industry uses the following standard sizes of billboards.

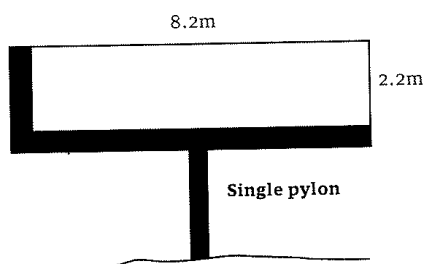
(A) 6 metres x 3 metres (18 square metres)



- 2:1 Artwork ratio



(B) 8.2 metres x 2.2 metres (18 square metres)



- 4:1 Artwork ratio
- Landscape version of 6m x 3m size
- Industry term 'Super 8'

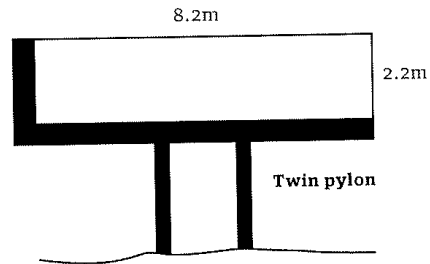
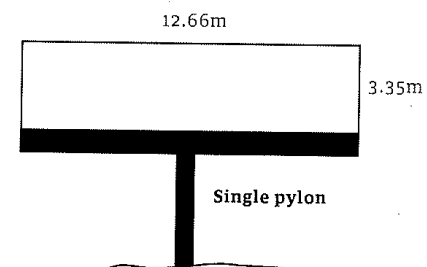


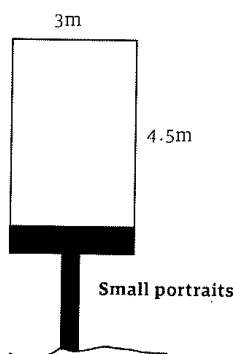
FIGURE 1.2 - Advertising Formats

C) 12.66 metres x 3.35 metres (42.41 square metres)

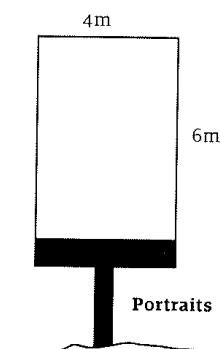


- 4:1 Artwork ratio
- Industry term 'Supersite'

(D) 3 metres x 4.5 metres (13.5 square metres)



- 1:1.5 Artwork ratio
- Industry term 'Portrait'



- 1:1.5 Artwork ratio
- Industry term 'Portrait'

2. The Current Planning Legislative Framework

This section discusses the current legislative environment in which OMA members operate when they develop outdoor advertising assets.

2.1. The NSW Environmental Planning and Assessment Act 1979

The NSW Environmental Planning and Assessment Act 1979 (EPA Act 1979) regulates development in NSW and as such provides the statutory framework that governs the development of outdoor advertising assets in the state.

The EPA Act 1979 provides for the making of subordinate legislation known as environmental planning instruments.

Under the EPA Act 1979 advertisements and advertising structures are defined pursuant to Section 4 definitions as:

'Advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

Advertising structure means a structure used or to be principally used for the display of an advertisement.'

Environmental planning instruments classify signage as falling within any of the following categories of development:

- **Exempt development.** Signage falling within this category may be constructed and displayed without consent, but only if specified requirements are met.
- **Complying development.** Provided specified requirements are satisfied, signage falling within this category may be constructed and displayed if a *complying development certificate* is issued certifying that the development has satisfied those requirements (s84a EPA Act 1979).
- **Permitted with consent.** If a sign is permissible with consent, the sign may be constructed and displayed, but only if development consent is obtained from the relevant consent authority (s76A(1) EPA Act).
- **Prohibited development.** Signs listed in this category are not permitted (s76B EPA Act 1979).

The key planning instruments and policies that regulate signage and advertisements under the EPA Act 1979 are:

- State Environmental Planning Policy No. 64 Advertising and Signage and the related Transport Corridor Advertising and Signage Guidelines;
- Standard Instrument Order 2006 which established a template that is to be used by Local Councils when they make a comprehensive Local Environmental Plan;
- State Environmental Planning Policy No. 60 Exempt and Complying Development;
- Local Environmental Plans made pursuant to Part 3 Division 4 of the Act; and
- Development Control Plans made pursuant to Part 3 Division 6 of the Act.

2.2. The Standard Instrument

On 31 March 2006, the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) commenced. The Standard Instrument prescribes the standard form and content for principal LEPs applying to a Local Government Area and it is proposed that each Local Government Area will eventually adopt the Standard Instrument.

A Local Government Area will be divided into land use zones. The Land Use Table in the Standard Instrument specifies for each zone, the types of development that may be carried out with or without development consent, and the types of development that are prohibited.

Direction 5 in the Land Use Table provides a list containing all of the types of development that may be specified in the Land Use Table. That list relevantly includes *advertising structures* and *signage*. The definition of *advertisement*, *advertising structure* and *signage* is as follows:

'advertisement means a sign, notice device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- a) an advertising structure,*
- b) a building identification sign,*
- c) a business identification sign,*

but does not include a traffic sign or traffic control facilities.'

The permissibility of *advertising structures* and *signage* is not prescribed as a compulsory provision in the Standard Instrument in any zone. Permissibility of *advertising structures* and *signage* may therefore vary in each Local Government Area for which the Standard Instrument is adopted.

This has been a huge concern for the OMA and its members. The OMA has made submissions to Local Councils within the Sydney metropolitan area during exhibition of the draft LEP's requesting Council's to identify signage and advertisements as a permissible use with consent in land use zones that are recognised under SEPP 64 as being appropriate locations for the display of general advertising signage. It is the OMA's experience that Councils are largely ignoring these submissions. This is discussed further in Section 5 of this report.

2.3. Application of State Environmental Planning Policy No.64 Advertising and Signage

SEPP 64 was gazetted in March 2001 and amended in August 2007. It applies to all signage that is permitted under another Environmental Planning Instrument and is visible from any public place or public reserve. The SEPP does not apply to advertising or signage that is "exempt development" under another Environmental Planning Instrument. A copy of SEPP 64 is detailed in Appendix A of this submission.

The terms *advertisement* and *signage* are defined under SEPP 64 as follows:

'advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

signage means all signs, notices, devices, representations, and advertisements that advertise or promote any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- a) building identification signs, and*
- b) business identification signs, and*
- c) advertisements to which Part 3 applies,*

but does not include traffic signs or traffic control facilities.'

Part 3 of SEPP 64 applies to the majority of signage or advertising undertaken by OMA members as it applies to all Signage excluding the following types of advertisements:

- a) business identification signs
- b) building identification signs
- c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it
- d) signage on vehicles

SEPP 64 is an important document as its provisions will prevail over LEPs to the extent of any inconsistency (cl7). The effect of this is as follows:

- a) Signage permissible without consent under another environmental planning instrument may be permissible with consent under SEPP 64
- b) Signage permissible with consent under another environmental planning instrument may be exempt development or prohibited under SEPP 64
- c) Signage prohibited under another environmental planning instrument may be permissible with consent under SEPP 64

The review that was undertaken of SEPP64 in 2007 was strategically important to the outdoor advertising industry as it resulted in a number of major amendments that promoted the importance of Transport Corridors as suitable locations for general advertising. The Key changes resulting from the 2007 amendments were:

- Advertisements were permitted with consent along land defined under the SEPP as a road, rail or transport corridor.
- The Minister for Planning became the consent authority for development applications made by and on behalf of the RMS, RailCorp or Tollway Operators.
- A public benefit test, being a monetary contribution or contribution in kind, applied to all applications requiring the concurrence of the RMS.
- A comprehensive set of Guidelines being the Transport Corridor Advertising and Signage Guidelines were introduced and established appropriate development assessment criteria that was relevant to the land use. These criteria were relevant because they had been developed in conjunction with the OMA.
- The introduction of road safety provisions that would be used by the RMS as the basis for concurrence.

- New assessment criteria in Schedule 1 of the SEPP that was relevant to determining whether a sign or advertisement resulted in an acceptable environmental impact.
- The identification of works that could be advanced as Exempt Development.

2.4. SEPP 60 Exempt and Complying Development

SEPP 60 applies to some parts of Metropolitan Sydney and 36 regional local Government areas (see cl4, Sch1). It also prevails over LEPs to the extent of any inconsistency (cl5).

2.4.1. *Exempt Development*

SEPP 60 lists the following types of development as exempt development:

Advertising structures and displays

The erection and display of an advertising structure and advertisement, or the display of an advertisement that is not on an advertising structure (but not an illuminated sign in a residential zone) that satisfies any of the following requirements:

'....

- c) *The advertisement is a temporary advertisement for a social, cultural, political or recreational event that is displayed no more than 28 days before the event. The advertisement must be removed within 14 days after the event.*
- d) *The advertisement is a public notice displayed by a public authority giving information about a service.*

....

- f) *The advertisement replaces one of the same, or a larger, size lawfully displayed on the same structure.*
- g) *The advertisement and any structure are not visible from outside the site on which they are displayed.'*

The definitions of *advertisement* and *advertising structure* in SEPP 60 are the same as those under s4 of the EPA Act 1979:

'advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.'

2.4.2. *Complying Development*

Signage may be listed as *complying development* under an environmental planning instrument applying to the land on which the sign is proposed.

Schedule 3 of any local environmental plan adopting the Standard Instrument list the types of *complying development*. We are not aware of any Standard Instrument local environmental plan that has listed any form of signage as *complying development* to date.

2.5. Development Control Plans

In addition to the provisions embodied in local environmental planning instruments the majority of Councils also have adopted development control plans that specify development standards for advertising signage.

In the majority of circumstances, the provisions contained in DCP's cannot be complied with by outdoor media companies such as APN Outdoor. OMA members have previously had difficulty with provisions contained in some DCP's, including:

1. Requirements for the content of the advertisement or sign to relate to the premises on which it is to be displayed. In summary many DCP provisions do not recognise third party or general advertising as a legitimate land use. The relationship between the content of the sign and the location at which it will be displayed is not considered in SEPP 64, nor should it be of relevance in any planning decisions involving the determination of a development application for a sign or advertisement.

The introduction of a sign should be assessed on its planning merits and not its content. Sign content, be it a business name or general creative copy, is superfluous in any determination about the suitability of a sign in a given location.

2. DCP's usually adopt advertising display area controls that are usually inconsistent with industry standards for advertising signage. Local Council's through their DCP controls would prefer to encourage small poster style signs of around 4 to 5 square metres in advertising display area in preference to a limited number of higher quality industry recognised formats. These formats are described in Section 3 of this report. While many Councils seek to prohibit third party advertising signs, it is in fact the small scale 'on-premises' signage that is the cause of significant visual clutter in streetscapes.

3. The term of a development consent for development applications relating to signage and advertisements under SEPP 64 is 15 years. While many DCP's work on a 3 to 4 year consent term. From an industry standpoint, if a longer consent term can be secured it facilitates a greater level of investment in the advertising structure which s to a higher urban design outcome. A longer consent term is particularly important for LED signage and advertisements given the considerable capital investment costs.

3. Planning issues confronting the Outdoor Media Industry in New South Wales

3.1. Anomaly between Local and State Planning Controls

Notwithstanding the definition of advertisements and advertising structures prescribed under the EPA Act 1979 and the subsequent definitions that were introduced with the gazettal of SEPP 64 in March 2001, there are many Local Council's within NSW that persist on prohibiting advertisements and signs through development control plan provisions or environmental plan definitions. This is achieved by making advertisements that are unrelated to the premises on which they are to be displayed, prohibited. These type of advertisements are commonly referred to in the outdoor media industry as third party or general advertising signs and are the primary advertising asset that OMA members develop.

While many Councils seek to prohibit third party advertising signs, it is in fact the 'on-premises' signage that is the cause of significant visual clutter on streetscapes. For example, on Parramatta Road between Broadway and Leichhardt, there are about 2140 on-premise signs as compared to only 14 third-party advertisements owned by OMA members.

The content of a sign is not controlled under SEPP 64. The design, siting and placement of a sign is assessed pursuant to the SEPP 64 against the criteria that is contained in Schedule 1 of SEPP 64. Schedule 1 is reproduced overleaf at Figure 3.1.

The Schedule 1 criteria are entirely relevant considerations underpinning a merit based planning assessment of a signage or advertising proposal. They are weighted appropriately to ensure that consideration is being given to the contextual fit of the proposal and the impact that it may have on maintaining the character of an area. They also address important considerations pertaining to traffic and pedestrian safety, illumination, occupational health and safety and the architectural integration of a sign with a host building.

The relationship between the content of the sign and the location at which it will be displayed is not considered in SEPP 64. Nor should it be of relevance in any planning decisions involving the determination of a development application for a sign or advertisement.

The introduction of a sign should be assessed on its planning merits and not its content. Sign content, be it a business name or general creative copy, is superfluous in any determination about the suitability of a sign in a given location.

While more and more LEP's seek to prohibit third party or general advertising signs, the Department of Planning and Infrastructure does not appear to bear SEPP 64 in mind when assessing these prior to gazettal.

The emphasis that is placed on strategic plan making in the new planning system must ensure that there is consistency between state and local plans and remove the potential for inconsistency. In this regard it will be essential for the State Government to provide an overarching strategic direction that recognises the role of advertising and its legitimacy as a land use.

FIGURE 2 - Schedule 1 Assessment Criteria

1. Character of the Area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is provided?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

2. Special Areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

3. Views and Vistas

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

4. Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

5. Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or buildings, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

6. Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

7. Illumination

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

8. Safety

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Source: Reproduced from SEPP 64

3.2. Limited Number of Development Consents for Outdoor Advertising Proposals

OMA members are concerned about the limited number of development approvals that are being achieved for outdoor advertising proposals on private sector land. There is a significant difference between the numbers of new large format signs that are developed on private land and those developed on State land. Research by the OMA suggests that since SEPP 64 came into effect in 2001, there has been only 1 new large format sign developed on private land, for every 4 on State land (this relates to road-facing signage only, and excludes State signage inside railway stations). While the OMA's members recognise that much of the prime land for signage is along major roads and therefore owned by the State, these figures indicate that the planning law framework for advertising signage in NSW may be weighted in favour of the State. This is an issue that the OMA's members wish to see addressed in the new planning regime.

Development on private land is important not only for the sustainability of the outdoor advertising industry, but for the local businesses that benefit from the advertising and for the landowners who can draw a significant income from hosting an advertising site.

The OMA estimates that the current rate of development consents being achieved on private land by its members for large format advertising proposals is one consent for every 15 development applications lodged. The key reason for refusal being given by Local Councils relates to non-compliance with Council planning provisions which render a proposal pursuant to the Council's assessment not in the public interest. Non-compliance with what are essentially development standards contained in development control plans or guideline documents relate to:

1. the issue of third party advertising as discussed in point 3.1 above; and
2. the large format size of the signs being inconsistent with the area dimensions prescribed for signage advertisements. (refer to sub section 1.5 for further discussion).

While the EPA Act 1979 enables an applicant to seek a review of a planning determination through Section 82A or to commence proceedings in the Land and Environment Court, the costs involved in appealing these decisions relative to the cost of the structure make the appeal process unviable for OMA members. OMA members would be more likely to appeal Council decisions if the planning system provided for a cost effective determination process for dispute resolution and appeals similar in format to the appeal system that operates in Victoria under the VCAT Tribunal. By way of example, the cost for our members to run an appeal in NSW may be from \$80,000 to \$100,000 whereas an equivalent appeal through VCAT will cost around \$20,000.

The preferred outcome as part of the NSW Planning System Review would be:

- The inclusion of the assessment criteria contained in SEPP 64 in a mandatory guideline document referenced through the Local Land Use Plan.
- Advertising and signage being a permissible landuse in all land use zones.
- The ability for advertising and signage to be considered as code complying development in Business, Commercial, Enterprise and Industrial, Mixed use and Infrastructure Zones.
- Merit based assessment for advertising and signage being considered for signs in excess of 45 square metres in advertising display area and to be located in sensitive locations such as heritage, residential, suburban character, open space and environmental zones.

3.3. Zoning under the Standard Instrument

3.3.1. Roads and Railways

It is commonly accepted that the most desirable locations for large format advertising and street furniture is major arterial roads, railways, airports, tollways, transport interchanges and light rail.

Currently many major roads and railway lines will be zoned Special uses “Roads” or “Railways” under an LEP. Smaller roads may be unzoned or zoned the same as the adjoining land use.

Department of Planning Circular PN 10-001 (**DOP Circular**) provided guidance to Councils on zoning public infrastructure land in standard instrument local environmental plans.

In most cases, roads and railway lines, if constructed by or on behalf of a public authority, may be constructed without development consent in any zone under State Environmental Planning Policy (Infrastructure) 2007 (**Infrastructure SEPP**).

The DOP Circular provides the following guidance to Councils with respect to the zoning of roads and railways:

- The Standard Instrument does not require LEPs to permit infrastructure in special purpose zones (which include Zone SP1 Special Activities and Zone SP2 Infrastructure) where that infrastructure is already permitted under the Infrastructure SEPP,
- Existing “special use” zones should be rezoned and the appropriate adjacent land zone should generally be used, and
- Currently many LEP roads are unzoned. In future, all land is to be zoned under LEPs, including roads.

In respect of the zoning of roads, the DOP Circular provides that roads should be zoned as outlined below.

- *Classified roads that pass through major retail centres should be zoned using the appropriate business zone for the adjoining land. This provides a planning framework for considering potential development over or below roads and on footpaths.*
- *Freeways, Tollways, Transit ways, National Highways and major roads (carrying greater than 40,000 vehicles per day) outside of major centres may be zoned SP2 Infrastructure. Other regional roads may be appropriate for an SP2 zoning such as the Pacific Highway. Councils should consult with the relevant Department of Planning Regional Office.*
- *Outside major centres, roads that carry less than 40,000 vehicles per day should generally be zoned the same as the adjoining land.*
- *All other roads should be zoned in accordance with the adjoining land. This avoids the need for spot rezonings where the roads are closed, or where the alignment of the road changes, which can commonly occur in rural and release areas.*
- *In cases where a road forms a boundary between zones:*
 - *The whole of the road should be zoned the same zone (i.e. the zone boundary should not run down the middle of the road); and*
 - *Where ever possible, the zone applied should be the same as that applied to adjoining land, and which provides for a range of land uses to assist with flexibility in land use planning.*

An assessment should be made on a case by case basis using the information provided, to determine the appropriate zoning for an unzoned road.

The zoning of roads and railways in zones SP1 Special Activities and SP2 Infrastructure is significant because there is a compulsory provision in the Standard Instrument which provides that the following is permissible with consent:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

Legal advice provided to the OMA indicates there is an issue regarding whether signage can be classified as “ordinarily incidental or ancillary to development” for purposes shown on the Land Zoning Map, which is likely to include roads, railways and similar uses.

Although the issue is one of fact and degree in the individual circumstances, HWL Ebsworth Lawyers are of the view, that any third party signage would not be classified as “ordinarily ancillary or incidental to” development for the purposes of roads or railways,

Although considered in a different statutory context, the Land and Environment Court case of Metro Transport Sydney Pty Ltd v City of Sydney Council [2009] NSWLEC37 is relevant. In Sydney advertising was not development that was incidental to a light rail system. Biscoe J said the following:

‘In my opinion, something is incidental to the carrying out of the development of the Monorail if it is reasonably necessary to effectuate that purpose.

Thus, in order to characterise the type of advertising in question as ancillary the applicant must establish that is reasonably necessary to achieve the purposes of development of a light rail system. That involves an issue of degree. Mere common association, with the matter centrally within power is insufficient of itself, to establish a sufficient connection.’

The suitability of transport corridors for the display of advertising and signage is widely accepted under the current planning regime as evidenced in NSW through the introduction of the Transport Corridor Outdoor Advertising and Signage Guidelines in 2007 as part of the review of SEPP 64 and its subsequent amendment.

Under Clause 16(4)(b), the SEPP 64 provisions that permit signage in transport corridors do not apply where signage is prohibited under an LEP made subsequently. The outcome is that LEP’s modelled on the Standard Instrument are effectively prohibiting signage on State road and rail corridors. The standard instrument as it relates to advertising and signage should not be considered as a suitable template for the land use zone component of the proposed Local Land Use Plan.

The planning review if it looks to adopt a Standard Instrument for the preparation of Local Land Use Plans must provide for the mandatory inclusion of advertisements, advertising structures and signage as permissible uses within the Special Infrastructure zones as they relate to road and rail corridors and tollways and extended to include light rail corridors, transport interchanges and ferry terminals. We would also recommend that definitions contained in Clause 4 of SEPP 64 for Transport Corridors, Road Corridors and Rail Corridors be retained.

3.3.2. *Other Land Use Zones*

Clause 10 of SEPP 64 establishes provisions that render the display of advertisements prohibited on certain land having regard to the zoning of that land under an environmental planning instrument. Clause 10 is reproduced below:

- (1) *Despite the provisions of any other 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:*
- *Environmentally sensitive area*
 - *Heritage area*
 - *Natural or conservation area*
 - *Open space*
 - *Waterway*
 - *Residential (but not including a mixed residential and business zone, or similar zone)*
 - *Scenic protection area*
 - *National park*
 - *Nature reserve*
- (2) *This clause does not apply to the following:*
- *The Mount Panorama Precinct,*
 - *The display of an advertisements at a public sporting facility situated on land zoned public recreation under an environmental planning instrument, being an advertisement that provides information about the sponsors of the teams or organisations using the sporting facility or about the products of those sponsors.*

Based on the application of Clause 10, it is reasonable to conclude that advertisements, advertising structures and signage are considered to be suitable land uses within land use zones that lie outside of Clause 10 nominated lands. This would include land zoned for the following purposes:

- Rural
- Business
- Industrial
- Mixed use
- Infrastructure
- Newly proposed Enterprise zone

It is the position of the OMA that the new hierarchy of plans should make advertisements, advertising structures and signage complying land uses within these land use zones.

In addition, the OMA submits that a merit based assessment process should be developed in relation to signage applications in some zones where Clause 10 of SEPP 64 currently prohibits signage. Specifically, there are individual circumstances where signage can be appropriately integrated into:

- heritage areas
- natural or conservation areas
- open spaces
- residential zones and the newly proposed suburban character zone, and
- scenic protection areas.

This is relevant for advertising assets that are displayed at a smaller poster size format on street furniture, and also for larger format signs in some circumstances. The OMA's members are aware of locations within the prohibition zones where a sign would be appropriate, would not offend the essential qualities of those zones, and yet is not possible due to the blanket prohibition. For example, signage can be used to cover unsightly walls on buildings, or may be appropriate where it is not visible from a protected foreshore area etc. In cases such as these, a system of merit based selection should be developed where the particular circumstances of a suitable site are taken into account rather than a blanket prohibition applied. This would ultimately benefit local businesses and local land owners and would enable private sector interests to keep up with State development of signage.

3.4. Advertising Content

Advertising content in Australia is self-regulated, as overseen by the Australian Association of National Advertisers and adjudicated by the Advertising Standards Bureau. This self-regulation operates successfully, as evidenced by the number of creative advertisements that are displayed each year without recall or community outcry. For example, in 2010 the outdoor advertising industry displayed 30,000 advertisements and only 67 of these received complaints. Of these complaints, only 7 were upheld.

SEPP 64 does not regulate the content of advertisements and does not require planning approval for the changing of advertising copy. The RMS can prohibit certain content under the NSW Roads Act 1993 if it is of the view that it is creating a traffic hazard. The OMA supports this approach and submits that it is not appropriate for planning controls to prescribe the content of creative copy.

The Transport Corridor Advertising and Signage Guidelines that were introduced in 2007 as part of the SEPP 64 review defined road safety advisory guidelines for sign content based on advice prepared by the former RTA. It is the view of the OMA that controls over signage content should lie outside of planning instruments and planning legislation, because content is successfully managed in the existing self-regulatory system.

Education about the need for message format controls relating to font size, display of phone numbers and email addresses are more appropriately managed through industry codes and guidelines, which can be more readily adapted to address advances in technology and social media. It is noted that advances in technology and social media such as the introduction of QR code scans will render controls for message format obsolete in the coming years. Therefore the OMA submits that it is inappropriate for such controls to be embedded in planning policy and statutory planning instruments.

The OMA recognises that road safety is an important consideration in the design and placement of advertising structures. However, guidelines for the content of advertising displays are successfully administered under the self-regulatory system and this should continue.

The planning review should not look to introduce content controls for signage as a development standard or as a condition of development consent.

3.5. Merit Based Assessment

Where merit based assessment is required, the OMA would suggest that the provisions contained within SEPP 64 and the associated Transport Corridor Guidelines form part of a mandatory guideline document that can be used by Local Council in their assessment of code assessable and merit based applications. Planning assessment based on numerical compliance as it relates to advertising signs is unworkable for many large format proposals and fail to have regard to the specific opportunities that often render a site highly desirable for the display of a large format outdoor advertisement. For example, many development control plans seek to limit the spacing of outdoor advertising structures to 500 metres along rural roads. However it may be preferable to site a cluster of signs in proximity to a service centre or truck weigh station rather than to intersperse within a natural bushland setting. Encouraging the use of merit based provisions will achieve better design outcomes and a greater level of integration of outdoor advertisements within urban and rural environments.

Merit based assessment as prescribed under the planning reforms should be used in circumstances involving:

1. The consideration of advertisements to be located in in land use zones relating to residential, suburban character, heritage, rural, open spaces, and environmentally sensitive lands; and
2. For advertisements and signs over 45 square metres in advertising display area.

3.6. NSW RMS-Concurrence Provisions

The OMA and its members are committed to developing outdoor advertising assets that do not compromise traffic safety. Under the Roads Act 1993, the RMS (as did the former RTA) has the power to require the removal of an outdoor advertising asset notwithstanding it is the subject of an existing development consent if it is deemed by the Authority to constitute a traffic hazard under the Roads Act 1993. In making this determination, the Authority may review the crash history of any new advertising site after a 3 year period to determine whether the sign has had an adverse effect on road safety.

A *Traffic Hazard* is defined under the Roads Act 1993 to mean:

A structure or thing that is likely:

- (a) *To obscure or limit the view of the driver of a motor vehicle on a public road, or*
- (b) *to be mistaken for a traffic control device, or*
- (c) *to cause inconvenience or danger in the use of a public road, or*
- (d) *to be otherwise hazardous to traffic.*

The OMA is not aware of any circumstances within NSW where the RMS or its predecessor the RTA, invoked this power to remove an existing advertising structure.

Development consents pertaining to large format advertising structures, particularly those that involve illumination frequently include as a condition of consent a provision enabling the removal of an advertising structure if it is found to be a traffic hazard. Similarly, the OMA is unaware of any situations in NSW where the RMS or its predecessor has enforced such a condition of development consent.

With the gazettal of SEPP 64 pursuant to Clause 17 and 18, the concurrence of the former RTA and now the RMS is required for any outdoor advertising proposals being advanced by private sector organisations on private land that are above 8 metres in height or 20 square metres in area and within 250 metres of and visible from a classified road. It is noted that RMS concurrence is not required for development applications that are being advanced by the RMS or RailCorp and for which the NSW Minister for Planning is the Consent Authority.

Under the provisions of Clause 18 (4) the RMS has 21 days to notify the Consent Authority whether it will grant its concurrence or has declined to grant its concurrence. If the Consent Authority has not received advice within 21 days, the concurrence of the RMA is said to have been granted.

Under the provisions of Clause 18(2) a Consent Authority must not grant development consent to the display of an advertisement without the concurrence of the RMS.

The criteria which are applied by the RMS in determining whether it will grant concurrence are contained in Schedule 1 of SEPP 64 and in Section 3 of the Transport Corridor Outdoor Advertising Guidelines. These criteria relate to:

- Sign location and design
- Variable messaging signs
- Moving Signs
- Video and animated signs
- Illumination and reflectance

With advances in technology, new forms of outdoor advertising are being developed employing liquid crystal diode (LCD) and light emitting diode (LED) technology. These new forms of display have been the subject of substantial international and national research. It is essential that a set of safe yet commercially viable criteria be introduced in NSW to enable the development and utilisation of advertising assets that employ these new forms of illumination. Further discussion concerning such criteria is presented below under section 3.7. It is essential that a set of parameters for the operation of LED signs be established as a matter of priority. These parameters must include industry agreed dwell and transition times these times need to be consistent with other states of Australia to ensure that the outdoor media industry in NSW is not operating at a disadvantage.

The Green Paper is advocating the upfront involvement of State Agencies and Authorities in the strategic plan making process. This upfront involvement will negate the need for the extensive concurrence provisions that traditionally apply under SEPP 64. The OMA would support the introduction of RMS agreed traffic safety criteria for static, illuminated and LED signs for building identification, business identification and general advertising signage.

It is the position of the OMA that all outdoor advertising proposals that are over 20 square metres in area or 8 metres in height and within 250 metres of and visible from a classified road should meet RMS agreed traffic safety criteria. The criteria must be capable of assessment and where compliance can be determined it would be reasonable for RMS concurrence powers to be delegated to local consent authorities. For applications being progressed as a merit based application due to the size of the advertisement is over 45 square metres in advertising display area the OMA would support the RMS concurrence provisions being retained.

3.7. LED Signage Displays

Signage that is presented using an array of Light Emitting Diodes is referred to as an LED display. The LEDs are presented to a viewer in the same way as pixels on a television screen. One of the advantages of LED displays is that advertising material can be changed electronically without produced printed graphics and having to manually change the material of each sign. LED's have a lamp life of up to 100,000 hours. Another significant advantage of LEDs is that they can be used in short notice in emergency situations to notify drivers of important messages, such as accidents or obstructions on the road. In the USA, law enforcement agencies also use digital billboards in emergencies to picture wanted persons, and this has led to a substantial number of arrests.

Appendix B of this submission details the report that has been prepared on behalf of the OMA by Dr Gordon Watson and Associates on LED advertising signage requirements. Relevant extracts from the report have been reproduced below.

The report was submitted to the former NSW RTA in January 2011. It is noted that since that time, while discussions have been held, no criteria have been agreed and introduced by the former RTA to enable development applications on private land involving LED illumination to be assessed. As there are still no regulations for this type of signage, many businesses have installed LED signage without permits, most notably pubs, clubs and retailers. This signage is prolific and unregulated while the OMA's members continue to wait for the finalised regulations before they will display LED signage.

An overview of LED technology and the key assessment criteria impacting on the assessment of development applications for LED signs is set out below.

As the graphics produced by LED's have their light output directed towards the viewer the LEDs must be switched on at all times during the operation of the signage in order for the graphics to be viewed. During night time hours LED signage operates similar to internally and externally illuminated signage. The level of brightness on the face of each sign is a measurement of the luminance and expressed in candelas per square metres.

During daylight hours LED signage is required to compete with high levels of daylight and requires a corresponding increase in luminance to allow the signage to be readable. Therefore the luminance of the LED signage must be increased commensurate with the ambient day time luminance in order for the viewing public to interpret and visualise the creative copy that is being displayed.

The Traffic Safety provisions that are contained in Section 3 of the SEPP 64 Transport Corridor Outdoor Advertising and Signage Guidelines do not adequately address the specific operational requirements of LED displays and require the introduction of an agreed set of criteria against which the safety of these signs can be assessed having regard to traffic safety. The key areas that require revision are:

- The introduction of a definition for an LED sign. At the present time Section 3 of the Guidelines makes reference to variable messaging signs, moving signs, video and animated signs. While LED refers to an illumination source there is confusion within the outdoor media industry as to how the RMS classifies an LED. It is recommended that a definition be inserted into SEPP 64 or mandatory guideline document to remove any uncertainty concerning LED signage.
- Section 3.2.5 of the Guidelines details luminance levels for externally and internally illuminated signs. The levels are set based on the classification that is given to the ambient lighting level of a proposed site location. The Guidelines recognise 5 locational zones with Zone 1 being an area of very high off-street ambient lighting such as a city location and Zone 5 being a covered area with very low ambient lighting such as an underground railway station. Dr Gordon Watson consulted with LED signage manufacturers regarding recommended luminance levels for LED displays for each of the locational zones. New luminance levels must be introduced to address the requirements of LED displays if they are to be effective. The luminance levels recommended by Dr Watson are presented in the Table at Figure 3.

FIGURE 3 – Luminance Levels

LIGHTING CONDITION	ZONES 2 AND 3	ZONE 4
Full Sun on Face of Signage	Maximum Output	Maximum Output
Day Time Luminance	60 00 cd/m ²	60 00 cd/m ²
Day Time Luminance Morning and Evening Twilight and Inclement Weather	700 cd/m ²	500 cd/m ²
Night Time	350 cd/m ²	250 cd/m ²

Source: Dr Gordon Watson

- The remaining issue that impacts on the operation of LED signs is the dwell time or the period of time for which advertising copy is displayed on an LED screen before transitioning to a new image. LED technology requires a substantial capital investment (a large format LED display of around 42 square metres requires a capital investment of around \$1 million as compared to an internally illuminated static light box of the same dimensions which represents a capital investment of around \$100,000). For the technology to be viable it must be able to operate on a feed cycle whereby creative copy changes at a regular and consistent interval.

The OMA is seeking a dwell time of 8-10 seconds with an immediate transition time for the changing of the display. The display would be completely static from its first appearance for a period of 8-10 seconds until the commencement of a change to another display.

Based on the most recent round of discussions, the RMS is advocating a dwell time of 8 seconds for roads on 60 kilometres per hour or less and 15 seconds for roads having a 60 kilometre per hour speed limit or more and 30 seconds on such roads during peak hour. It is the OMA's position that these dwell times are too restrictive based on the international and national operation of LED signage displays and the current rules that apply for variable messaging signs on RMS roadways. There are existing LED displays in operation in Victoria operating at dwell times of 8 seconds. LED displays currently in operation on Federal Airport Corporation land (outside of State planning legislation) at the Sydney domestic and international terminals are also operating on dwell times of 8-10 seconds. If OMA members are to invest in the new technology in NSW then the commercial operation and management of these displays must be consistent with national and international procedures.

The issue of LED signage displays has been in discussion between the OMA, the Department of Planning and Infrastructure and the RTA/RMS for three years. Significant delays have been caused by the former RTA and yet there are numerous examples across the state of electronic signage that is unregulated and displaying dwell times significantly faster than those sought by the OMA's members. These signs are regularly displayed on clubs, pubs, retail outlets and mobile units, generally without permits and with faster dwell times than 8 seconds. Just one example of such a sign is pictured below.

FIGURE 3.2 - LED Variable Message Sign Gosford RSL



This is an example of an LED variable message sign on a club in Gosford, visible from a major roadway, with message changes every 3 to 4 seconds.

In addition, the RMS variable message signs that are located close to roadways display dwell times of 2 to 3 seconds, which certainly casts doubt on RMS claims that short dwell times are hazardous for drivers. The RMS is acting outside the boundaries of what they are seeking to impose on the outdoor advertising industry and the OMA's members consider this to be an inequitable double standard.

The outdoor advertising industry cannot sustain any further time delays to the introduction of an agreed set of criteria against which LED displays can be assessed. Continued delays by the RMS to address this matter will have serious repercussions on the competitiveness of the industry within NSW and the continued the growth of the industry within global markets.

The OMA advocates that the introduction of LED technology should be managed under a new planning system in the following manner:

- A definition for LED signage and advertisements be developed in conjunction with the OMA and included in a mandatory guideline document that would be used by Local Councils and State Agencies charged with responsibility for assessing development applications for advertising and signage.
- A set of criteria should be agreed between the NSW Department of Planning, the RMS and the OMA as a matter of priority for the operation of advertising and signage utilising LED technology. These are the criteria that should be adopted in the mandatory guideline document.
- The above criteria be used as the basis for the assessment of signage and advertisements utilising LED technology and that this assessment be progressed as code complying development for all LED proposals not exceeding 45 square metres in area and not located in a sensitive location.

3.8. Monetary Contributions

The 2007 amendments that were made to SEPP 64 introduced a public benefit test (Clause 18 and 24 of SEPP 64) for:

- Advertisements made by the RMS or RailCorp;
- The display of advertising structures more than 20 square metres in area or 8 metres in height and within 250 metres of a classified road; and
- Bridge advertisements.

Pursuant to Clause 13 of SEPP 64 a consent authority must not grant development consent for a development application unless it is satisfied that the appropriate arrangements have been entered into for the provision of a public benefit to be provided in connection with the display of the advertisement.

SEPP 64 does not prescribe a methodology for determining an appropriate public benefit for an advertisement. Section 4 of the Transport Corridor Outdoor Advertising Guidelines indicates that a public benefit can be provided as a monetary contribution or as an in kind contribution but that the contribution must be linked to improvements in local community services and facilities such as:

- Improved traffic safety (road, rail, bicycle and pedestrian);
- Improved public transport services;
- Improved public amenity within or adjacent to a transport corridor;
- Support school safety infrastructure programs; or
- Other appropriate community benefits.

In respect to advertising proposals progressed by the RMS and RailCorp, the public benefit provisions that flow from applications made by State Agencies form part of a revenue stream that is used by those agencies to fund capital works improvements to their own infrastructure.

While the number of applications that have been approved by private organisations since the gazettal of the 2007 SEPP 64 amendments is relatively small, there have now been sufficient instances to indicate that a framework is required to determine what an appropriate public benefit provision for any given advertisement is.

It is the experience of some OMA members that the consideration of what constitutes an appropriate public benefit contribution has delayed the determination of development applications by Local Councils. In these circumstances, Consent Authorities are requiring third party valuations of advertising assets to be submitted as they are seeking to establish an appropriate public benefit contribution based on the commercial income stream that the advertisements will generate over a consent term. Further, some applications become simply unviable when Consent Authorities choose to require exorbitant and unjustified public benefit contributions for developments on private land. There is no precedent under current planning legislation for establishing monetary contributions based on a commercial end value of an asset.

The Green Paper advocates a fairer and simpler system for monetary contributions and advocates that they be tied to the provision of infrastructure delivery as specified in Infrastructure Delivery Plans.

The OMA would support the replacement of the existing community benefit test provisions contained within SEPP 64 with a local infrastructure contribution. The OMA would support the local infrastructure contribution being calculated against the construction value of a sign and not the operating revenue value that is generated from the sign.

The OMA notes that prior to the introduction of SEPP 64, an annual licencing arrangement existed for advertising signs under Ordinance 55 and the Local Government Act 1993. This licencing arrangement provided an effective revenue stream to councils and it provide a better alternative to a one off monetary contribution. The OMA would ask that the reintroduction of a licence fee arrangement be considered as part of the planning review process.

3.9. Street Furniture Permissibility

Specifically in NSW, OMA members provide and maintain over 7000 items of public infrastructure (such as street furniture and bus shelters) to the value of \$90 million. This provides a considerable saving for local and state Government agencies that would normally need to fund the provision of these assets within our urban centres, it also provides a revenue stream back to Local Councils from these assets.

The provision of street furniture is funded directly from the revenue generated through the display of general advertising. In these situations, Local Council offer through public tender, the right to display advertising on street furniture assets in exchange for the provision of street furniture throughout a Local Government Area. Frequently, the terms of these contractual arrangements also incorporates the ongoing maintenance of street furniture assets.

With the introduction of SEPP 64 there has been uncertainty by Local Council's as to how the provision of SEPP 64 should apply to advertising on street furniture assets. For example, one Northern Beaches Council, required an OMA member to lodge a SEPP 1 objection to the development standards contained in Clause 22 of SEPP 64 for wall advertisements, as that Council interpreted the display of an advertisement on the side of a bus shelter to be a wall advertisement.

Another area of concern that has arisen for OMA members that specialise in street furniture advertising are the prohibitions that exist under Clause 10 of SEPP 64. Of particular concern are the prohibitions relating to the display of advertising in residential zones. This is impacting on the provision of bus shelters that incorporate advertising along classified roads that pass through residential precincts.

3.10. Appropriate Planning Considerations

The OMA is a national organisation and works with Local and State Government Authorities across Australia to streamline planning processes and policy for outdoor advertising. It is imperative that any new planning regime in NSW as it relates to advertising and signage is consistent with the approaches being adopted nationally.

Approaches to considering signage applications should be consistent with leading international cities.

Appropriate planning considerations that should be applied to the assessment of advertising and signage structures are detailed below:

3.10.1. *Location and Zoning*

Advertising and signage should be considered as mandatory permissible land uses within rural, business, industrial, mixed use and infrastructure zones. It is also recommended that this permissibility be extended to the new Enterprise Zone mooted in the Green Paper:

Provisions enabling the consideration of applications on a merit basis pertaining to the incorporation of advertising structures in heritage conservation areas, natural or conservation areas, open space, residential, suburban character and scenic protection areas should be considered in preference to the outright prohibition that exists at the moment pursuant to the provisions of Clause 10 of SEPP 64. The Green Paper supports this approach through the ability to progress an application on the basis of a merit based assessment.

This type of flexibility is relevant for advertising assets that are displayed at a smaller poster size format on street furniture, and also for larger format signs in some circumstances. For example, signage can be used to cover unsightly walls on buildings, or may be appropriate where it is not visible from a protected foreshore area etc. In cases such as these, a system of merit based selection should be developed where the particular circumstances of a suitable site are taken into account rather than a blanket prohibition applied. This would ultimately benefit local businesses and local land owners, and would enable private sector interests to keep up with State development of signage.

3.10.2. *SEPP 64 Criteria*

Generally, the OMA would support the incorporation of SEPP 64 criteria as the basis for the introduction of a mandatory guideline document that introduced development standards for advertising and signage subject to the following amendments:

- Removal of the 45 square metre limitation on the size of advertisements that can be considered without the need for a Development Control Plan being in force that has been prepared based on advertising design analysis. As stated in subsection 1.5 of this submission the large format advertisements that are commonly advanced by this industry reach 85 square metres in area, known as the spectacular format signs. There are special situations where outdoor advertising exceeds the 85 square metre advertising display area however these are limited signage opportunities such as the advertising on the silos at Pyrmont, the trivision sign at O'Riordan Street at Mascot or the large format wall at Railway Square above Westpac. It is considered that signage displays over 45 square metres in height should be assessed on their merits.
- The removal of the requirement for signage in rural zoned lands to be considered only where it relates to the promotion of tourism opportunities (being places of scientific, historical or scenic interest as specified under clause 15(2)bii). The OMA contends that this requirement is overly restrictive and limits the consideration of signs along transport corridors and tollways that promote the business activities that occur within the rural townships that major road and rail thorough fares connect.

3.11. Exempt Development

The OMA would encourage greater consideration being given to the use of exempt development provisions for certain advertising and signage proposals.

At the present time Clause 33 of SEPP 64 outlines provisions that recognise advertisements on Transport Corridor Land that are carried out by or on behalf of the RMS or RailCorp as exempt development. These provisions recognise the following works as exempt:

- (a) The display of an advertisement in an underground railway station or railway tunnel;*
- (b) Display of an advertisement at a railway station or bus station if the advertisement is visible primarily from within the railway corridor or bus station;*
- (c) Removal of existing signage,*
- (d) Modifications to existing signage on transport corridor land carried out to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.*

As detailed in Section 2 of this submission, SEPP 60 (which applies to some parts of Metropolitan Sydney and 36 regional Local Government Areas) identifies certain types of advertisements as exempt development. These are:

Advertising structures and displays

The erection and display of an advertising structure and advertisement, or the display of an advertisement that is not on an advertising structure (but not an illuminated sign in a residential zone) that satisfies any of the following requirements:

'....

- e) The advertisement is a temporary advertisement for a social, cultural, political or recreational event that is displayed no more than 28 days before the event. The advertisement must be removed within 14 days after the event.*
- f) The advertisement is a public notice displayed by a public authority giving information about a service.*

....

- h) The advertisement replaces one of the same, or a larger, size lawfully displayed on the same structure.*
- i) The advertisement and any structure are not visible from outside the site on which they are displayed.'*

In respect to exempt development, the OMA would recommend that the following works and advertisements be progressed as exempt development across all Local Government Areas in NSW:

- The exempt development provisions contained in SEPP 64 Clause 33(d) be expanded to include works on private land where they relate to modifications to advertising and signage structures to meet occupational health and safety requirements.
- Street furniture displaying static, scrolling and illuminated advertising (included LED displays under 3 square metres) where it is located in a business, industrial, mixed use, enterprise or infrastructure zone.
- Advertisement and signs that replace one of the same size lawfully displayed on the same structure.
- An advertisement or sign on any structure not visible from outside the site on which it is displayed.

4. The OMA Response to the Green Paper

This section addresses the reforms that are identified in The Green Paper that impact on The OMA with respect to advertising and signage.

4.1. The Underlying Objective of the Reform

4.1.1. *Green Paper Reforms*

Purpose of the Planning System

The overarching purpose of the new planning system for New South Wales is to:

- promote economic development and competitiveness
- connect people and places
- protect the environment
- improve people's quality of life
- resolve land use trade-offs based on social, economic and environmental factors
- effectively manage growth and change.

Objectives of the Planning System

To meet these challenges the planning system will need to be:

Simple—reduce complexity and remove red tape

Certain—provide predictability and certainty about how decisions are made for both investors and the community

Transparent—base decisions on strong community participation and evidence

Efficient—achieve time frames for completion of planning processes through increased accountability for efficient decision making

Effective—planning strategies facilitate investment and manage change

Integrated—promote greater cooperation and partnerships between all levels of government, and balance environmental protection with economic growth

Responsive—provide flexibility to respond to change and ensure markets are competitive.

Principles for Reform

The principles driving the reform of the NSW planning system are:

- the community is entitled to relevant, timely and accurate data on which to make decisions on planning issues
- robust and evidence based strategic planning will provide the foundation for certainty and integrity in decision making
- communities value their neighbourhoods, heritage and local environment, and have a right to be involved in decisions that shape their community
- where a proposal meets agreed requirements there is a presumption in favour of a right to develop
- time frames for development assessment and referrals must be clear and enforceable and set leading benchmarks amongst Australian planning systems
- planning decisions should be made by the level of governance capable of doing so, taking into account the economic and geographical area influenced by the decision
- individuals and markets are best placed to deliver diverse choices, vibrant communities and strong and sustainable economies.

OMA Comments

The OMA supports the objectives and principles upon which the new planning system will be based. Certainty, transparency and simplicity are essential to delivering an efficient and viable planning system. We support evidence based planning principles. SEPP 64 and the associated Transport Corridor Guidelines have been important for three key reasons:

1. They have played an education role in assisting regulators to understand the commerciality of outdoor advertising and how it 'fits' within urban contexts and transport corridors.
2. It established certainty by identifying land use zones where advertising and signage could be progressed and recognised as being appropriate.
3. It introduced a fair and reasonable suite of development standards that which for the first time were appropriate to the land use.

From the perspective of the OMA, it is essential that the new planning system deliver the same level of certainty and flexibility for advertising and signage related proposals as is provided under SEPP 64.

4.2. The Reform Changes

4.2.1. *Community and Stakeholder Engagement*

Four changes are proposed by the NSW Government to empower the community in the decision making process:

CHANGE 1

A Public Participation Charter

The NSW Government proposes a Public Participation Charter to require appropriate community participation to occur in plan making and development assessment.

CHANGE 2

Strategic community participation

The community will be engaged early at the strategic planning stages in the setting of the overall planning outcomes for an area. This is important so that decision makers can fully articulate the trade-offs involved in strategic planning decisions.

CHANGE 3

Transparency in decision making

Community confidence in decisions will be increased through:

- evidence based decision making with full community participation
- a clear strategic context for decisions and a clear line of sight through the hierarchy of plans
- readily accessible planning information with plans at all levels written in plain English—public tracking of the decision making processes and public reporting of time frames.

CHANGE 4

Use of information technology and electronic planning

The community will be able to access planning information and decision making through use of electronic planning, notification and engagement tools.

OMA Comments

The OMA supports the emphasis that is given to community and stakeholder participation in the formulation of the strategic plans that will become the focus of the new legislation.

An essential part of the Public Participation Charter should be the formulation of a mandatory list of stakeholders that should be consulted as part of the plan making process.

To this end, it has been the OMA's experience that the advertising industry is not actively approached by Local Councils to participate in the formulation of plans and policies notwithstanding the impact that they have on the industry. The OMA requests that the OMA and its member organisations be identified as an integral stakeholder and that both State and Local Government Authorities be required to actively consult with the Association and its members as part of the strategic plan making process.

The OMA supports the introduction of an e technology web platform. It agrees that providing the ability to access land use zoning, land title and development standards online is an essential element of a new planning regime for NSW.

4.2.2. *Strategic Planning*

The new planning system will substantially and significantly shift its emphasis and provisions to a strategic planning framework. The NSW Government is proposing a transformative approach both in scope and in application with statutory recognition of strategic plans at the regional, subregional and local levels.

Major structural change is proposed at all levels of the planning system to remove complexity and duplication:

CHANGE 5

NSW Planning Policies will articulate the NSW Government's policy direction and position on major planning issues – such as housing and housing affordability, employment, mining, coastal planning, conservation – and will inform strategic plans at all levels. The *NSW Planning Policies* will replace the myriad of *State Environmental Planning Policies* and *117 Directions* currently in place, modernising and simplifying the current system.

CHANGE 6

Regional Growth Plans, including the current Metropolitan Plan for Sydney, will become integrated growth plans, linked with the *NSW Long-Term Transport Master Plan* and the regional areas of NSW will be strengthened and include provisions to facilitate growth and change.

CHANGE 7

Subregional Delivery Plans prepared in growth areas based on groupings of local councils will be:

- Underpinned by a series of *Sectoral Strategies* that will provide a strong evidence base for housing, employment, retail, environment, rural, mining and other areas of focus
- Linked to *Growth Infrastructure Plans* which will provide a costed, funded infrastructure pipeline to support growth within the subregion
- Prepared in partnership with Local Government, state agencies and stakeholders and in consultation with the community
- Able to directly deliver the new zones once approved
- Based on new subregional boundaries that will group local councils based on economic growth patterns, natural resource boundaries and infrastructure catchments.

CHANGE 8

Local Land Use Plans will include four parts – a strategic context, spatial land use zones, and infrastructure growth and service delivery component and development guidelines and standards.

CHANGE 9

New Zones to maximise flexibility, provide opportunities for investment capture, and protect suburban character in certain circumstances.

OMA Comments

In respect to Change 5 while the OMA accepts that the new planning regime will see the abolition of SEPP 64 it is essential to maintain an overarching directive through the State Planning Policies that recognise and promote advertising and signage as:

- A legitimate land use,
- An essential component of a global city and the transport corridors that connect the cities; and
- A core requirement to support local, state, national and international business markets.

With the continued growth of social media, outdoor advertising is becoming essential for businesses as they look to promote brand recognition and encourage audiences to their websites. A new planning regime must acknowledge and provide for the display of outdoor advertising and look to embrace the new LED technologies.

In respect to Change 7 being the introduction of Sub Regional Delivery Plans, we would recommend that suitable locations where advertising and signage can be advanced as exempt, code assessable, and merit based development be identified. Exempt and code assessable areas must include rural, transport corridors, commercial centres, industrial areas, mixed use and enterprise zones.

In respect to Change 8, being the introduction of Local Land Use Plans, we would recommend that the following provisions be standardised across all Local Government Areas:

- The OMA would recommend that the definitions contained in Clause 4 of SEPP 64 be retained and made mandatory as they relate to signage, advertisements, advertising structures, LED signage and advertisements, Transport Corridors, Rail Corridors and Road Corridors.
- Provisions be defined for assessing advertising and signage as code assessable in landuse zones relating to rural, mixed use, enterprise, business, industrial, retail and transport corridors.
- Code assessable provisions should recognise the existing development standards embodied in Schedule 1 of SEPP 64 and the Transport Corridor Guidelines.
- RMS concurrence be delegated to Local Councils for code assessable development applications.
- Retain RMS concurrence provisions for signage and advertisements that exceed 45 square metres in advertising display area.
- Provide for a merit based assessment in situations where signage and advertising proposals are being advanced in residential, suburban character, heritage conservation, scenic and environmental protection and open space zones.
- Merit based assessment criteria should address:
 - Visual Impact
 - Illumination Levels
 - Traffic Safety

4.2.3. *Development Assessment and Compliance*

The NSW Government proposes transformative changes for streamlined development assessment within the new planning system:

CHANGE 10

Depoliticising decision making so that decisions on development applications are made based on evidence by independent expert panels.

CHANGE 11

Strategic compliance to reduce costs and speed up delivery of development that is consistent with strategic planning.

CHANGE 12

Reforming state significant assessment to deliver major projects sooner to drive economic growth by exploring new opportunities for further integration of assessment—including agencies working together in new ways to complete major assessments.

CHANGE 13

Smarter and timely merit assessment to promote economic growth through all levels of development assessment:

- Matching information requirements to the assessment stage
- Speedy assessments
- Bringing Joint Regional Planning Panels into the assessment process
- Adopting an amber light approach
- Letting the market bear the risk
- Smart consent conditions.

CHANGE 14

Increasing code assessment (complying development) to reduce transaction costs and speed up approvals:

- Increasing the range of development types that are be exempt from any approval
- Extending the development types that can be approved by accredited certifiers
- Allowing councils to vary standards for specific applications
- Expanding the electronic housing code
- Working with councils, industry and planning and building professionals to make code assessment simpler and more user friendly.

CHANGE 15

Extend reviews and appeals to make government and councils more accountable

- Allow proponents to seek an independent review of a council's decision on whether a rezoning should go ahead
- Allow councils and proponents to seek an independent review of the Department of Planning and Infrastructure's decision on whether a rezoning should continue
- Allow proponents to seek an independent review of the Department of Planning and Infrastructure's decision to issue a Strategic Compatibility Certificate or a Site Compatibility Certificate
- Ensure more independent post approval reviews.

OMA Comments

The OMA supports depoliticising the decision making process surrounding development assessment and determination. The establishment of independent panels that include industry experts is appropriate for the determination of merit based applications by Local Councils. We would recommend that Local Councils establish a list of practitioners that have expertise in specific areas. To this end we would recommend that experts with an understanding of outdoor advertising, illumination, traffic safety and visual impact be available to advise on advertising related proposals. We note that Brisbane City Council establishes an expert panel to assess outdoor advertising proposals that are deemed non-compliant with existing controls and which are being progressed on their merit. In Brisbane City Council the representatives of the Outdoor Advertising Panel change at nominated terms.

In respect to Change 13 relating to smarter and timely merit assessment the OMA supports establishing appropriate development assessment criteria for advertising and signage. It is our opinion that Schedule 1 of SEPP 64 and the associated Transport Guidelines provide the foundation for the development of mandatory guideline document which could be issued to Local Councils and State Agencies that have a role to play in development assessment.

With the introduction of LED digital signage it is necessary that SEPP 64 provisions be supplemented to include illumination and dwell time assessment criteria as a matter of priority. To this end, digital signage is being introduced in Queensland and Victoria but is lagging behind in NSW as agreement cannot be reached on appropriate dwell times with the RMS.

In respect to smart consent conditions The OMA would not support the introduction of conditions that regulate content. It is recommended that a standard 15 year consent term apply across NSW for all advertising and signage applications that do not involve LED technology. For consents relating to an LED advertisement, the high capital investment cost of the technology would render a 20 year consent term more appropriate.

The OMA supports the introduction of code assessable development and the nominated 10 day assessment timeframe. The following table identifies the signage and advertising types and locations that The OMA considers appropriate to be advanced as code assessable development:

SIGNAGE TYPES	LANDUSE LOCATIONS
Super 8 - Illuminated and non illuminated	Business Zones
Supersites - Illuminated and non illuminated	Mixed Use Zones
Bill Board - Illuminated and non illuminated	Enterprise Zones
Building Wrap	Infrastructure Zones for transport corridors
Special Promotional	Industrial Zones
Hoarding	
LED illuminated signs and advertisements under 45 square metres in advertising display area.	

- The OMA supports merit based assessment for the following signage types and locations:

SIGNAGE TYPES	LANDUSE LOCATIONS
Super 8 - Illuminated and non illuminated	Heritage Conservation Areas
Supersites - Illuminated and non illuminated	Open Space Zones
Bill Board - Illuminated and non illuminated	Environmental and Scenic Protection
	Suburban Character Zones
Signs utilising LED technology in these locations.	Residential Zones
Signs over 45 square metres in advertising display area	All zones

4.2.4. *Infrastructure Planning and Co-ordination*

The major changes proposed to the planning system relating to infrastructure delivery are:

CHANGE 16

Contestable Infrastructure Provision to enable greater private sector participation in the delivery of infrastructure that supports growth.

CHANGE 17

Growth Infrastructure Plans to link strategic planning with infrastructure planning and provision, hence strengthening certainty and accountability for delivery.

CHANGE 18

Fairer, simpler system of infrastructure contributions to support the rapid supply of housing and improve affordability.

CHANGE 19

Public Priority Infrastructure to streamline assessment for major infrastructure delivery and provide upfront certainty accounting for increasing public private delivery models.

OMA Comments

The OMA would support the introduction of a infrastructure contribution for advertising signage on bridges, or within 250 metres of a classified road or with an advertising display area greater than 20 square metres or higher than 8 metres above natural ground level that was levied on the basis of the construction cost of a sign or advertising structure. It would replace the existing public benefit provisions currently prescribed under SEPP 64.

The OMA does not support the levying of a contribution that is based on the commercial revenue stream generated by an advertisement or sign.

The OMA would recommend that consideration be given to the reintroduction of an annual licencing arrangement for signage and advertisements that is modelled on the former Ordinance 55 and Local Government Act 1993 licencing fee that existed prior to the introduction of SEPP 64. The OMA considers that an annual fee is preferable to a one off monetary contribution arrangement.

5. Conclusion

The introduction of SEPP 64 in 2001 was vital for the continued viability of the outdoor media industry in NSW. Prior to its introduction in 2001 there had been a strong bias against general and third party advertising as a land use. The introduction of SEPP 64 enabled the industry to progress and manage an asset base against clear criteria and with certainty.

The Green Paper is indicating that the reform process will see the replacement of state environmental planning instruments as we know them by a hierarchy of strategic plans at the state, regional and local levels which are both statutory and non-statutory in status.

What is not clear to the OMA in The Green Paper and which is of paramount concern is how the suite of planning controls that pertain to outdoor advertising in SEPP 64 and the supporting Transport Corridor Advertising and Signage Guidelines will be addressed in the new legislation.

Through this submission The OMA has made suggestions as to how advertising and signage can be managed under the new planning system. A summary of the key recommendations is detailed in Table 5.1.

TABLE 5.1 – OMA Recommendations for the Planning Reform

Propose Reform	OMA Recommendations
<p>State Planning Policies</p> <ul style="list-style-type: none"> - Practical High Level Advice <p>10-12 Policies</p> <ul style="list-style-type: none"> • Housing supply and Affordability • Employment • Biodiversity Conservation • Agricultural Resources • Mining and Petroleum Extraction • Coastal Management • Retail Development • Tourism • Regional Development • Infrastructure 	<p>A high level statement is required that acknowledges macro-scale planning principles relevant to the signage and advertising landuse:</p> <ul style="list-style-type: none"> • The role that signage plays in supporting Australian business and its competitiveness in global markets. • The role that signage plays in brand recognition imperative to the growth of social media and internet retail. • The role that signage plays in way finding and providing support for local business and tourism. • The role of signage in providing a revenue stream to facilitate infrastructure delivery by State Government Agencies.
<p>Sub Regional Development Plans</p>	<ul style="list-style-type: none"> • Introduce a mandatory definition or signage, advertisements, advertising structures, LED signage and advertisements, Transport Corridors, Road Corridors and Rail Corridors. The OMA supports the current definitions of signage prescribed under Clause 4 of SEPP 64. With respect to a definition for LED signage and advertisements it is recommended that this be developed in conjunction with the OMA. • Provide a mandatory requirement for signage, advertisements and advertising structures to be a permissible land use in all land use zones. • Specify mandatory requirements for signage, advertisements and advertising structures that can be considered as Exempt, Code Complying and Merit Based Development. • Recommend that merit based development assessment be used in preference to blanket prohibitions as currently exist under Clause 10 of SEPP 64.

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Propose Reform	OMA Recommendations
<ul style="list-style-type: none"> - Smart Consent Conditions - Merit Based Appeals and DA Modifications 	<ul style="list-style-type: none"> • All moving, flashing and variable messaging signage other than Exempt Development to be merit based. • Signage that does not fall under Exempt or Code Assessable provisions and is located in the following spatial zones to be merit based: <ul style="list-style-type: none"> ○ Residential ○ Suburban Character ○ Open Spaces ○ Heritage Conservation ○ Scenic/Environmental Protection • The OMA would recommend that a standard consent term of 15 years be introduced for all development applications pertaining to signage and advertising related applications not utilising LED technology and a 20 year term be applied for advertisements and signage that utilise LED technology. • The OMA <u>would not</u> support the introduction of any consent conditions that restrict content. Content is currently regulated by the industry and this should be retained. • The OMA supports the retention of Section 82A and 96A modification provisions. • The OMA supports the retention of developer proposed rezoning applications and the increased role of joint regional planning panels in this process.

Propose Reform	OMA Recommendations
Infrastructure Planning and Coordination	<ul style="list-style-type: none"> • The OMA would support the replacement of the current public benefit provisions contained within the SEPP 64 with a Standard Infrastructure Contribution that was levied on general advertising signage. This levy should be based on the <u>construction value</u> of the sign and not the commercial revenue returned by the sign. • The OMA would recommend that consideration be given to an annual licencing arrangement for advertisements and signs similar to the system that existed under Ordinance 55 and the Local Government Act 1993 prior to the introduction of SEPP 64. An annual licencing fee is considered by the OMA to be preferable to a one off monetary contribution.
Public Participation Charter	<ul style="list-style-type: none"> • The OMA would recommend that a mandatory list of stakeholders be developed and maintained by the Department of Planning and Infrastructure. This list of stakeholders should be available to all Local Councils and these stakeholders should be invited to participate in all plan making at the State and Local level. The OMA would seek inclusion on such a list. • In the event that a stakeholder database is not mandated then The OMA would ask that Local Councils and State Agencies be required to consult with The OMA on all plans that look to regulate and control the display of signage and advertisements.

APPENDIX A

State Environmental Planning Policy No 64—Advertising and Signage

PART 1 – PRELIMINARY

1 *Name of Policy*

This Policy is State Environmental Planning Policy No. 64—Advertising and Signage.

2 *Commencement*

This Policy commences on 16 March 2001.

3 *Aims, objectives etc.*

(1) This Policy aims:

- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

4 *Definitions*

(1) In this Policy:

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

advertising display area means, subject to subclause (2), the area of an advertisement or advertising structure used for signage, and includes any borders of, or surrounds to, the advertisement or advertising structure, but does not include safety devices, platforms or lighting devices associated with advertisements or advertising structures.

advertising industry means the Outdoor Media Association and includes, in relation to a locality, a body that represents businesses that manage advertising in the locality.

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

associated road use land, in relation to a road, means:

- (a) land on which road infrastructure associated with the road is located, or
- (b) land that is owned, occupied or managed by the roads authority for the road and that is used for road purposes or associated purposes (such as administration, workshop and maintenance facilities, bus interchanges and roadside landscaping).

building identification sign means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.

building wrap advertisement means an advertisement used in association with the covering or wrapping of:

- (a) a building or land, or
- (b) a building that is under construction, renovation, restoration or demolition,
but does not include a wall advertisement.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person, and
 - (ii) the business carried on by the person,
at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not include any advertising relating to a person who does not carry on business at the premises or place.

classified road means a road classified under Part 5 of the Roads Act 1993.

consent authority means the consent authority determined in accordance with clause 12.

display includes the erection of a structure for the purposes of display and the use of land, or a building on land, for the purposes of display.

freestanding advertisement means an advertisement that is displayed on an advertising structure that is mounted on the ground on one or more supports.

Guidelines means the provisions of the publication titled Transport Corridor Outdoor Advertising and Signage Guidelines approved by the Minister for the purposes of this Policy, as in force and as published in the Gazette on the date of publication in the Gazette of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2).

Editorial note. For the Transport Corridor Outdoor Advertising and Signage Guidelines see Gazette No 98 of 3.8.2007, p 5413.

Mount Panorama Precinct means the land shown edged heavy black on the map marked “State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 1)” deposited in the principal office of the Department of Planning.

navigable waters has the same meaning as in the Marine Safety Act 1998.

product image means any words, letters, symbols or images that identify a product or corporate body, but does not include any object to which the words, letters, symbols or images are attached or appended.

public art policy means a policy adopted by a consent authority, in a development control plan or otherwise, that establishes forms and locations for art works in the public domain.

RailCorp means Rail Corporation New South Wales constituted under the Transport Administration Act 1988.

railway corridor means the following land:

- (a) land on which railway track and associated railway infrastructure is located (including stations and platforms),
- (b) land that is adjacent to land referred to in paragraph (a) and that is owned, occupied or managed by RailCorp and used for railway purposes or associated purposes (such as administration, workshop and maintenance facilities and bus interchanges),
- (c) land zoned for railway (including railway corridor) purposes under an environmental planning instrument,
- (d) land identified as a railway corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

road corridor means the following land:

- (a) land comprising a classified road or a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, and associated road use land that is adjacent to such a road,
- (b) land zoned for road purposes under an environmental planning instrument,
- (c) land identified as a road corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

roof or sky advertisement means an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.

RTA means the Roads and Traffic Authority constituted under the Transport Administration Act 1988.

signage means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- (a) building identification signs, and
 - (b) business identification signs, and
 - (c) advertisements to which Part 3 applies,
- but does not include traffic signs or traffic control facilities.

special promotional advertisement means an advertisement for an activity or event of a civic or community nature, but does not include a wall advertisement.

the Act means the Environmental Planning and Assessment Act 1979.

transport corridor land means the following land:

- (a) land comprising a railway corridor,
- (b) land comprising a road corridor,

(c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by the RTA or RailCorp.

(1) wall advertisement means an advertisement that is painted on or fixed flat to the wall of a building, but does not include a special promotional advertisement or building wrap advertisement. Advertising display area of an advertising structure that contains advertising on two or more sides is to be calculated separately for each side and is not the sum of the display areas on all sides.

(2) In this Policy, a reference to a zone, in relation to an environmental planning instrument, is a reference to an area, reserve or zone (within the meaning of the instrument) identified in the instrument by the words or expressions used in this Policy to describe the zone or by like descriptions or by descriptions that incorporate any of those words or expressions.

(3) Notes in this Policy do not form part of it.

5 Area of application of this Policy

(1) This Policy applies to the whole of the State.

(2) Without limiting subclause (1), this Policy applies to all land and structures within the State and all vessels on navigable waters.

(3) Despite subclause (1), this Policy does not apply to the following land:

Land to which State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007 applies

Land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies

6 Signage to which this Policy applies

(1) This Policy applies to all signage:

(a) that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and

(b) is visible from any public place or public reserve,

except as provided by this Policy.

Note. Public place and public reserve are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.

(2) 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.

7 Relationship with other environmental planning instruments

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

Note. This Policy will have the effect of modifying, and having paramountcy over, the provisions of some other environmental planning instruments that permit the display of signage with or without development consent. This is particularly so in the case of large advertisements, being advertisements of the kind referred to in Part 3. This Policy (other than clause 16) will not override a prohibition on the display of signage that is contained in another environmental planning instrument.

Because of some provisions, such as clauses 10 and 21, it may add prohibitions on advertising if the advertising is proposed to be displayed in certain circumstances, such as on environmentally sensitive or environmentally significant land or in the form of a roof or sky advertisement.

PART 2 - SIGNAGE GENERALLY

8 Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

PART 3 - ADVERTISEMENTS

DIVISION 1 GENERAL

9 Advertisements to which this Part applies

This Part applies to all signage to which this Policy applies, other than the following:

- (a) business identification signs,
- (b) building identification signs,
- (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,
- (d) signage on vehicles.

10 Prohibited advertisements

(1) 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:

- environmentally sensitive area
- heritage area (excluding railway stations)
- natural or other conservation area
- open space
- waterway
- residential (but not including a mixed residential and business zone, or similar zones)
- scenic protection area
- national park
- nature reserve

(2) This clause does not apply to the following:

- (a) the Mount Panorama Precinct,
- (b) the display of an advertisement at a public sporting facility situated on land zoned public recreation under an environmental planning instrument, being an advertisement that provides information about the sponsors of the teams or organisations using the sporting facility or about the products of those sponsors.

DIVISION 2 - CONTROL OF ADVERTISEMENTS

11 Requirement for consent

A person must not display an advertisement, except with the consent of the consent authority or except as otherwise provided by this Policy.

12 Consent authority

For the purposes of this Policy, the consent authority is:

- (a) the council of a local government area in the case of an advertisement displayed in the local government area (unless paragraph (c), (d) or (e) applies), or
- (b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or
- (c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or
- (d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:
 - (i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or
 - (ii) a bridge constructed by or on behalf of the RTA on any road corridor, or
 - (iii) land that is owned, occupied or managed by the RTA, or
- (e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.

13 Matters for consideration

(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:

- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
- (c) satisfies any other relevant requirements of this Policy.

(2) If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:

- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:
 - (i) design, and
 - (ii) road safety, and
 - (iii) the public benefits to be provided in connection with the display of the advertisement, and
- (c) satisfies any other relevant requirements of this Policy.

(3) In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.

14 *Duration of consents*

- (1) A consent granted under this Part ceases to be in force:
 - (a) on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or
 - (b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.
- (2) The consent authority may specify a period of less than 15 years only if:
 - (a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or
 - (b) the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or
 - (c) the specification of a lesser period is required by another provision of this Policy.

DIVISION 3 - PARTICULAR ADVERTISEMENTS

15 *Advertisements on rural or non-urban land*

- (1) This clause applies to land that, under an environmental planning instrument, is within a rural or non-urban zone and on which an advertisement may be displayed with the consent of the consent authority.
- (2) Except in a case to which subclause (3) applies, the consent authority must not grant consent to display an advertisement on land to which this clause applies:
 - (a) unless a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct in consultation with:
 - (i) the advertising industry and anybody that is representative of local businesses, such as a chamber of commerce, and

- (ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,
- and the display of the advertisement is consistent with the development control plan,
- or
- (b) if no such development control plan is in force, unless:
 - (i) the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and
 - (ii) specifies one or more of the following particulars:
 - (A) the purpose for which the land or premises is or are used,
 - (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
 - (C) a description of an occupation or business referred to in sub-subparagraph (B),
 - (D) particulars of the goods or services dealt with or provided on the land or premises, or
 - (E) (Repealed)
- (c) if no such development control plan is in force, unless the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest.
- (3) In the case of an application to display an advertisement on transport corridor land when the Minister is the consent authority, the consent authority must not grant consent to display an advertisement on land to which this clause applies unless the consent authority is satisfied that the advertisement is consistent with the Guidelines.

16 Transport corridor land

- (1) Despite clause 10 (1) and the provisions of any other environmental planning instrument, the display of an advertisement on transport corridor land is permissible with development consent in the following cases:
 - (a) the display of an advertisement by or on behalf of RailCorp on a railway corridor,
 - (b) the display of an advertisement by or on behalf of the RTA on:
 - (i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or
 - (ii) a bridge constructed by or on behalf of the RTA on any road corridor, or
 - (iii) land that is owned, occupied or managed by the RTA and that is within 250 metres of a classified road,
 - (c) the display of an advertisement on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.
- (2) Before determining an application for consent to the display of an advertisement in such a case, the Minister for Planning may appoint a design review panel to provide advice to the Minister concerning the design quality of the proposed advertisement.

(3) The Minister must not grant consent to the display of an advertisement in such a case unless:

- (a) the relevant local council has been notified of the development application in writing and any comments received by the Minister from the local council within 28 days have been considered by the Minister, and
- (b) the advice of any design review panel appointed by the Minister has been considered by the Minister, and
- (c) the Minister is satisfied that the advertisement is consistent with the Guidelines.

(4) This clause does not apply to the display of an advertisement if:

- (a) the Minister determines that display of the advertisement is not compatible with surrounding land use, taking into consideration any relevant provisions of the Guidelines, or
- (b) the display of an advertisement on the land concerned is prohibited by a local environmental plan made after the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2).

17 Advertisements with display area greater than 20 square metres or higher than 8 metres above ground

(1) This clause applies to an advertisement:

- (a) that has a display area greater than 20 square metres, or
- (b) that is higher than 8 metres above the ground.

(2) The display of an advertisement to which this clause applies is advertised development for the purposes of the Act.

(3) The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:

- (a) the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
- (b) the application has been advertised in accordance with section 79A of the Act, and
- (c) the consent authority gave a copy of the application to the RTA at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.

18 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

(1) This clause applies to the display of an advertisement to which clause 17 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.

(2) The consent authority must not grant development consent to the display of an advertisement to which this clause applies without the concurrence of the RTA.

(3) In deciding whether or not concurrence should be granted, the RTA must take into consideration:

- (a) the impact of the display of the advertisement on traffic safety, and

(b) the Guidelines.

(c) (Repealed)

(4) If the RTA has not informed the consent authority within 21 days after the copy of the application is given to it under clause 17 (3) (c) (ii) that it has granted, or has declined to grant, its concurrence, the RTA is taken to have granted its concurrence.

(5) Nothing in this clause affects clause 16.

(6) This clause does not apply when the Minister for Planning is the consent authority.

19 *Advertising display area greater than 45 square metres*

The consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:

(a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or

(b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.

20 *Location of certain names and logos*

(1) The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.

(2) If the advertising display area has no border or surrounds, any such name or logo is to be located:

(a) within the advertisement, or

(b) within a strip below the advertisement that extends for the full width of the advertisement.

(3) The area of any such name or logo must not be greater than 0.25 square metres.

(4) The area of any such strip is to be included in calculating the size of the advertising display area.

21 *Roof or sky advertisements*

(1) The consent authority may grant consent to a roof or sky advertisement only if:

(a) the consent authority is satisfied:

(i) that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or

(ii) that the advertisement improves the finish and appearance of the building and the streetscape, and

(b) the advertisement:

(i) is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and

(ii) is no wider than any such part, and

- (c) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.
- (2) A consent granted under this clause ceases to be in force:
 - (a) on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or
 - (b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.
- (3) The consent authority may specify a period of less than 10 years only if:
 - (a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or
 - (b) the area is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed roof or sky advertisement would be inconsistent with that change.

22 *Wall advertisements*

- (1) Only one wall advertisement may be displayed per building elevation.
- (2) The consent authority may grant consent to a wall advertisement only if:
 - (a) the consent authority is satisfied that the advertisement is integrated with the design of the building on which it is to be displayed, and
 - (b) for a building having:
 - (i) an above ground elevation of 200 square metres or more—the advertisement does not exceed 10% of the above ground elevation, and
 - (ii) an above ground elevation of more than 100 square metres but less than 200 square metres—the advertisement does not exceed 20 square metres, and
 - (iii) an above ground elevation of 100 square metres or less—the advertisement does not exceed 20% of the above ground elevation, and
 - (c) the advertisement does not protrude more than 300 millimetres from the wall, unless occupational health and safety standards require a greater protrusion, and
 - (d) the advertisement does not protrude above the parapet or eaves, and
 - (e) the advertisement does not extend over a window or other opening, and
 - (f) the advertisement does not obscure significant architectural elements of the building, and
 - (g) a building identification sign or business identification sign is not displayed on the building elevation.
- (2A) In the case of the display of a wall advertisement on transport corridor land, subclause (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.

(3) In this clause, building elevation means an elevation of a building as commonly shown on building plans.

23 Freestanding advertisements

(1) The consent authority may grant consent to the display of a freestanding advertisement only if the advertising structure on which the advertisement is displayed does not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.

(2) This clause does not prevent the consent authority, in the case of a freestanding advertisement on land within a rural or non-urban zone, from granting consent to the display of the advertisement under clause 15.

24 Advertisements on bridges

(1) A person may, with the consent of the consent authority, display an advertisement on a bridge.

(2) The consent authority may grant consent only if the consent authority is satisfied that the advertisement is consistent with the Guidelines.

(3) (Repealed)

25 Special promotional advertisements

(1) A person may, with the consent of the consent authority, display a special promotional advertisement on land zoned for business, commercial or industrial purposes.

(2) The consent authority may grant consent only if:

(a) a development control plan applies to the land on which the special promotional advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and

(b) the display of the advertisement is limited in time to a total of 3 months in any 12-month period, and

(c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.

(3) A special promotional advertisement may cover the entire facade or hoarding of a building or site, subject to this clause.

26 Building wrap advertisements

(1) A person may, with the consent of the consent authority, display a building wrap advertisement on land zoned for business, commercial or industrial purposes.

(2) The consent authority may grant consent only if:

(a) a development control plan applies to the land on which the building wrap advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and

(b) the display of the advertisement is limited in time to a maximum of 12 months, and

(c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.

(2A) In the case of the display of a building wrap advertisement on transport corridor land, subclause (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.

(3) A building wrap advertisement may cover the entire facade or hoarding of a building or site, subject to this clause.

27 Advertisements within navigable waters

(1) An advertisement within any navigable waters is prohibited, except an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(2) A person may, with the consent of the consent authority, display an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(3) In this clause, vessel means any ship, lighter, barge, boat, raft or craft, and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatever description and however navigated, and includes amphibious vessels, seaplanes, hydroplanes, hydrofoils, hovercraft, sunken or stranded vessels, and the wreck or remains of any vessel.

28 Application of provisions of this Division

If more than one provision of this Division is capable of applying to the display of an advertisement, each such provision applies.

Note. It may be, for example, that clause 19 will apply to the display of an advertisement in addition to clauses 17 and 18, or that clause 23 will apply in addition to clause 17, 18 or 19.

PART 4 - MISCELLANEOUS

29 Advertising design analysis

(1) A council, in preparing an advertising design analysis for an area or locality for the purposes of clause 15, 19 or 21, is to include an analysis of the following:

- (a) the existing character of the area or locality, including built forms and landscapes,
- (b) the key positive features of the existing character of the area or locality,
- (c) the desired future character of the area or locality,
- (d) the role of outdoor advertising.

(2) In undertaking an advertising design analysis (not being an advertising design analysis referred to in clause 15 (2) (a)), the council must consult with the advertising industry and local businesses.

30 (Repealed)

31 Consultation with RTA

In the preparation of a draft local environmental plan under Division 4 of Part 3 of the Act that makes provision for or with respect to signage or advertising to which this Policy applies within 250 metres of a classified road, a council should consult with the Roads and Traffic Authority.

32 Applications made before the commencement of this Policy

An application made to a consent authority before the commencement of this Policy for consent to display an advertisement that has not been determined before that commencement is to be determined in accordance with this Policy.

32A Savings for development applications made before SEPP No 64—Advertising and Signage (Amendment No 2)

An application made to a consent authority before the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2) for consent to display an advertisement that has not been determined before that commencement is to be determined as if that Policy had not been made.

33 *Exempt development*

(1) Advertisements on transport corridor land

The following development on transport corridor land is exempt development when carried out by or on behalf of the RTA or RailCorp:

- (a) display of an advertisement in an underground railway station or railway tunnel,
- (b) display of an advertisement at a railway station or bus station if the advertisement is visible primarily from within the railway corridor or bus station,
- (c) removal of existing signage,
- (d) modifications to existing signage on transport corridor land carried out to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.

(2) Electoral matter relating to Federal, State or local government elections

The display of any poster that contains electoral matter in relation to an election is exempt development if the poster:

- (a) is no larger than 8,000 square centimetres, and
- (b) is displayed by or on behalf of a candidate at the election or the party (if any) of any such candidate, and
- (c) is displayed in accordance with any requirements of the Act under which the election is held, and
- (d) is displayed only during the relevant period.

(3) In subclause (2):

election means an election held under the Commonwealth Electoral Act 1918 of the Commonwealth, the Parliamentary Electorates and Elections Act 1912 or the Local Government Act 1993.

electoral matter means:

- (a) any matter that is intended or calculated or likely to affect (or is capable of affecting) the result of an election or that is intended or calculated or likely to influence (or is capable of influencing) an elector in relation to the casting of his or her vote at an election, and
- (b) the picture of a candidate at an election, along with the candidate's name and the name of the party (if any) of any such candidate.

relevant period, in relation to an election, means the period comprising the following:

- (a) the period of 5 weeks immediately preceding the day on which the election is held,
- (b) the election day,

- (c) the period of 1 week immediately following the election day.

34 *Review of Policy*

The Minister must ensure that the provisions of this Policy are reviewed:

- (a) as soon as practicable after the first anniversary of the commencement of State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 2), and
- (b) at least every 5 years thereafter.

SCHEDULE 1 – ASSESSMENT CRITERIA

1. *Character of the area*

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

2. *Special areas*

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

3. *Views and vistas*

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

4. *Streetscape, setting or landscape*

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

5. *Site and building*

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

6. *Associated devices and logos with advertisements and advertising structures*

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

7. *Illumination*

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

8. *Safety*

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

APPENDIX B

KONDWERA TECHNICAL SERVICES PTY LTD TRADING AS

GORDON WATSON and ASSOCIATES

ELECTRICAL
LIGHTING
DESIGN
ACN 002 105 268
ABN 83 002 105 268

29 CURRAWONG AVENUE
NORMANHURST
NSW 2076
TEL 02 9487 2119
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27 January 2011

Outdoor Media Association
Suite 204,
80 Williams Street
East Sydney NSW 2011

Attn: - Ms Linda Black

Dear Madam

Re: Submission to Roads and Traffic Authority, NSW – LED Advertising Signage Requirements for Night Use

I refer to our recent discussions regarding the requirements within the Transport Corridor Outdoor Advertising and Signage Guidelines relating to electronic signage utilising Light Emitting diodes as a light source.

The following are my comments and suggested proposal for inclusion into the Transport Corridor Advertising and Signage Guidelines.

1. EXTERNALLY ILLUMINATED SIGNAGE

Externally illuminated signage using front mounted floodlights have been a method of providing illumination for advertising signage after dark for some time. Originally incandescent lamps were used as the lighting source. In recent times discharge lamps have been employed as they provide a

higher light output for less power input. Discharge lamps can also have a higher colour temperature than incandescent lamps which results in a much whiter light source and can be used to accentuate certain colours normally the reds, greens and blues. A consideration is that the luminaires used in these types of externally illuminated signs are standard floodlights which have long lamp life. These floodlights have to be aimed carefully or have shades fitted in order to control light spillage to adjacent areas.

2. INTERNALLY ILLUMINATED SIGNAGE

Internally illuminated signage generally is constructed using a box type enclosure housing a lighting source, usually a number of fluorescent lamps providing a distributed output of light across the enclosure. The front of the enclosure is provided with a translucent material on which advertising material is printed. During daylight hours sunlight illuminates the advertising material on the front of the signage and can be visualised by passing pedestrians and drivers. During the hours of darkness the fluorescent lamps within the signage enclosure provide internal illumination or backlit illumination so that the advertising material can be visualised by the public in general. New advertising material on each signage is provided by changing the material on the front of the signs on which the graphics is printed.

3. LIGHT EMITTING DIODES (LED) SIGNAGE

A relatively new method of presenting advertising material to the public is by using signage comprising an array of Light Emitting Diodes (LED). These LEDs are presented to a viewer in the same way as pixels on a television screen. One of the advantages is that the advertising material can be changed electronically without producing printed graphics and manually changing the material of each sign. LEDs have lamp life predicted as 20,000-50,000 hours.

As the image graphics are produced by LEDs with their light output directed towards the viewer the LEDs must be switched on at all times during the operation of the signage in order for the graphics to be viewed. During night time this type of signage operates similar to internally and externally illuminated signage. That is to say all three types of signage utilises light when operating during the night hours to allow the viewer to read the signage. The level of brightness on the face of each sign is a measurement of luminance expressed in candelas per square metre (cd/m²).

4. DAY AND NIGHT OPERATION

Both front and internally illuminated signage have the advertising information printed on a medium situated on the face of the signage. During daylight hours the graphics can usually be viewed in ambient daylight levels. As daylight illuminance levels decrease the graphics require to be illuminated so that they can be read by passing viewers.

However, during daylight hours LED signage is required to compete with high levels of daylight and requires a corresponding increase in luminance to allow the signage to be readable. It is also the case that the public viewing the signage will have their eyes in a high light adaptation mode. Therefore, the luminance of LED signage must be increased commensurate with the ambient day time luminance in order that the viewing public can visualise the signage graphics.

Under the present day time luminance levels in the Transport Corridor Outdoor Advertising and Signage Guidelines this type of signage will appear washed-out and unreadable. However, if the day light luminances in the Guidelines were adequately increased then the present requirement of reducing the night time luminance to one-quarter of the day time luminance would result in higher than acceptable night time luminances.

It is proposed that a separate category for LED signage be included in Section 3.2.5 of the Signage Guidelines to accommodate day time and night time luminances for this particular type of source used in signage.

5. DAY OPERATION OF SIGNAGE IN FULL SUN

There may be occasions that the LED signage is installed facing in a direction approximately east or west where, at certain times of the day, the face of the signage will receive direct sun light. This will result in the maximum average luminance of the signage being less than the luminance on the face of the signage provided by the direct sun light, with the result that the signage will be unreadable. In order to provide sufficient luminance from the LED sources to compete with the direct sun the output of LED signs would need to be increased to maximum.

Sun shining directly on to the face of the signage would be a condition existing for a relatively short time before sunset and after sunrise dependent on the orientation of the signage. As this situation is not applicable to all signage it is suggested that a special requirement is applied to include control equipment which will sense direct sun shining on to the face of the signage and switch to maximum luminance of the signage only for the period when the sun shines directly on to the face of the signage.

6. SIGNAGE OUTPUT CONTROL

There are many installations of externally and internally illuminated signage that are controlled by light sensors such that the signage is switched On at sunset and Off at sunrise. As these sensors are light sensitive it is possible that they may activate the signage illumination during periods of heavy overcast clouds.

Similar controls can be installed for the LED type of signage. The sensor controls proposed for LED signage would switch the signage to the night luminance, to a higher level of luminance for twilight and inclement weather, to the day time luminance and to maximum when the direct sun is on the face of the signage when required.

In cases where the maximum level of luminance was required due to direct sun light on the face of the signage a composite sensor may be required. One measurement sensor would be for ambient light and a second sensor for sensing direct sun light on the face of the signage.

7. LIGHTING SCIENCES LED SIGNAGE RECOMMENDATIONS

Dr Ian Lewin who is the Principal of Lighting Sciences, Scottsdale, Arizona, USA has produced a report providing recommendations for electronic digital billboards during night time conditions.

The Lighting Sciences report Section 3.2, Determining the Maximum Allowance Billboard Luminance, addresses a method of measuring the eye illuminance produced by billboards above ambient then setting a limit. In Dr Lewin's report the eye illuminance was 3.22 lux and this illuminance was used to calculate the allowable maximum billboard luminance.

It can be seen from the worked example that the allowable billboard average luminance would be, in this case, 342 cd/m². This report also proposes viewer distances for various sizes of billboards.

Section 3.3 Determining the Allowable Dimmer Setting, addresses how percentage dimmer settings can be calculated. This is advantageous as manufacturers of electronic billboards using LEDs as the light source normally set the dimming via software programs which relate to a percentage of the maximum average luminance of the billboard.

It is understood that this report has been adopted for use in proposed Standards based on the IESNA Lighting Zone E2.

8. DAKTRONICS RECOMMENDATIONS

Daktronics, Brookings, South Dakota, USA, is one of the leading manufacturers of digital electronic billboards who also have an office and workshop in Sydney.

Discussions have been held with Daktronics, Sydney and two of the Daktronics engineers in Brookings, South Dakota.

During discussions, Daktronics indicated that an appropriate maximum day time luminance for electronic billboards with LED sources would be 6000 cd/m² in situations where no direct sun is shining on the face of the sign. It was also agreed that during the time before sunset or after sun rise when the face of a billboard is receiving direct sun the output should be increased to the maximum output of the LEDs.

Night time luminances were discussed and a luminance of 350 cd/m² was considered appropriate for electronic billboards so that they can be read without causing excessive glare to passing motorists and pedestrians. Between sunset and the end of evening twilight and between the beginning of morning twilight and sunrise an appropriate luminance would be 700 cd/m². These luminances relate to Zones 2 and 3.

Within Zone 4 the maximum day time luminance would be 6000 cd/m² or increased to the maximum output of the signage LEDs if the sun was directly on the face of the sign. Night time luminances for this zone would be 250 cd/m² and 500 cd/m² for evening and morning twilight.

In-built light sensors to each billboard would control the luminance levels such that during cloud cover or inclement weather the luminance would reduce accordingly.

The Daktronics engineers confirmed that the luminances discussed are similar to those used within the USA for digital electronic billboards using LED light sources.

9. CONFIRMATION TESTS

After discussions with the Daktronics engineers in South Dakota a test was arranged at Chatswood, NSW to confirm that the luminances discussed would be acceptable for Australian conditions.

A sample electronic billboard was erected outside the Daktronics workshop at Chatswood on Monday 22 January 2011. Tests were conducted at 11.00am when the day time illuminance was measured as 105,000lux. The sign was positioned within the outdoor car park and set to a maximum output with the average luminance measured as 7500 cd/m². The average output of the sign was reduced to 6000 cd/m². Coloured images were then shown on the electronic billboard and viewed from a distance of 25m from the sign. The images on the sign could be viewed clearly without causing visual discomfort.

The method of measuring the luminance was that set out in the Lighting Science document using an illuminance meter. However, as these measurements were taken in day light a short tube was installed over the sensor of the illuminance meter which looked at an area covering the area of the electronic sign and excluding a large proportion of ambient day light.

Tests were also carried out at sunset and at the end of twilight.

At sunset the ambient illuminance was measured as 240 lux and the sign luminance was measured as 710 cd/m². At the end of twilight the ambient illuminance was measured as 1 lux and the sign

luminance was measured as 340 cd/m². Neither of these luminances caused visual discomfort when viewed from a distance of 25m in an ambient illuminance equating to Zone 3.

The luminance of the sign was further reduced to 260 cd/m² and the images could viewed clearly and without visual discomfort from a distance of 25m in an ambient illuminance equating to Zone 4.

As the signs are controlled in steps set by software it was found difficult to set the sign luminance to 250, 350 and 700 cd/m².

The illuminances were measured using a NATA calibrated illuminance meter with the calibration certificate dated 29 November 2010.

10. VARIABLE MESSAGE SIGNS

Variable message signs (VMS) are often installed on freeways and major roads. . The source used in the VMS units are LEDs and normally have a yellow coloured group of LEDs making up the digits on the sign. Axent is a manufacturer of these VMSs and include in their technical data sheets published on their web site that the minimum luminance of their VMS units is 15,000 cd/m².

11. PROPOSAL

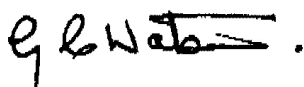
LED signage manufacturers have been consulted regarding luminances recommended for the various levels of luminance required by signage. A practical demonstration with luminances measured was carried out in Sydney with a large scale LED sign.

Based on the above it is proposed to submit the following luminances for Zones 2, 3 and 4 in the Signage Guidelines.

LIGHTING CONDITION	ZONES 2 AND 3	ZONE 4
Full Sun on Face of Signage	Maximum Output	Maximum Output
Day Time Luminance	60 00 cd/m ²	60 00 cd/m ²
Day Time Luminance Morning and Evening Twilight and Inclement Weather	700 cd/m ²	500 cd/m ²
Night Time	350 cd/m ²	250 cd/m ²

A site visit can be organized to view an LED sign under the difference lighting conditions to verify the adequacy of this proposal.

I trust my comments and suggested proposals will be of assistance to you regarding the luminance requirements of electronic billboards.



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