

31 March 2017

Planning Legislation Updates 2017
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Email to legislativeupdates@planning.nsw.gov.au

Dear Legislation Updates Team

NSW Planning Legislation Updates 2017 Submission from Outdoor Media Association

INTRODUCTION

The Outdoor Media Association (OMA) welcomes the opportunity to provide comments on the consultation draft of the NSW Planning Legislation Updates (Legislation Updates).

The OMA supports the Legislation Updates and in particular the following objectives:

- to enhance community participation
- to promote strategic planning
- to increase probity and accountability in decision making
- to promote simpler, faster processes for all participants.

Overall the OMA supports a NSW planning system that will provide certainty, transparency and simplicity for its members. To achieve this, the OMA considers a successful planning system will incorporate:

- Recognition of Out of Home (OOH) advertising signage as a legitimate landuse.
- Proactive, fair and reasonable development standards that are appropriate for signage land use.
- Provision for the responsible display of OOH advertising signage within urban centres and along transport corridors.
- Provision for advertising and signage to embrace new digital technologies.

As part of previous reform processes, the OMA has consistently raised three key concerns regarding the planning system in this NSW. It is the hope of the OMA that these Legislation Updates will finally address these issues.

ISSUES

The OMA has made submissions to earlier stages of the NSW planning reform process, including the Green Paper (Sept 2012) and the White Paper (June 2013). More recently

the OMA made a submission to the *Draft transport corridor outdoor advertising and signage guidelines* (the Guidelines). The update to the Guidelines was worked on by the OMA with Roads and Maritime Services (RMS), Transport for NSW and the Department of Planning and Environment (DPE) and provides guidance on the operation of digital advertising signage in NSW. They are yet to be formally adopted.

In each of these submissions, the OMA has raised three key concerns with the NSW Planning System that cause uncertainty and significant delays for members. These issues are discussed in detail in the OMA's submission to the Guidelines (refer Attachment 1), and are summarised below:

1. The delayed adoption and formalisation of the Guidelines meaning there is no official guideline for the safe operation of digital signage in NSW.
2. The prohibition of new advertising signage in most transport corridor land in NSW as a result of Clause 16(4)(b) of *State Environmental Planning Policy No. 64* (SEPP 64) and the wording of the current Standard Instrument for Infrastructure Zoning in *Local Environmental Plans* (LEPs).
3. The lack of clarity regarding the approval pathway when upgrading an existing fixed, scrolling or tri-vision sign to a digital sign.

The Guidelines

The OMA collaborated with NSW Government agencies on the update to the Guidelines to improve the 2007 version by incorporating controls for digital signs. The adoption of the Guidelines is critical, given the increasing use of digital signage across a range of formats. Their adoption will support NSW state priorities – particularly by encouraging business investment and creating jobs.

The Guidelines have a direct commercial impact on the NSW Government which profits from the OOH industry through taxes and also through rents paid on leasing inventory stock from roads, railways and buildings. In 2015 RMS reported \$22 million in advertising revenue and Sydney Trains just over \$25 million.

The SEPP 64

The SEPP 64 makes it clear that transport corridor land is a logical place for advertising signs, instructing that they are 'permissible with development consent'.¹ However, Clause 16(4)(b) allows Local Councils to disregard this intention, if 'the display of an advertisement on the land concerned is prohibited by a local environmental plan made after' the SEPP 64.²

The issue is that the Standard Instrument for Infrastructure Zoning in LEPs does not expressly permit signage with consent in SP1 or SP2 zones (which includes arterial roads, railways, airports, tollways, transport interchanges and light rail). Accordingly, councils that adopt the Standard Instrument and do not take action to specifically amend this provision effectively prohibit advertising in all transport corridors.

At present, 40 of the 43 metropolitan Sydney councils have adopted LEPs based on the Standard Instrument in relation to that provision.³ The result is that the overall intention of SEPP 64 in respect of signage in transport corridors is overridden throughout the vast

¹ State Environmental Planning Policy No 64—Advertising and Signage, Clause 16(1)

² SEPP 64, Clause 16(4)(b)

³ NSW Office of Local Government: <https://www.olg.nsw.gov.au/content/download-council-contact-details>

majority of metropolitan Sydney.

The three metropolitan councils that permit signage with consent in SP1 and SP2 zones use Development Control Plans (DCPs) to great effect to manage the development of signage in an appropriate and responsible way. The deletion of Clause 16(4)(b) would allow SEPP 64 to operate as it was originally intended, while allowing councils the ability to responsibly plan for signage development through DCPs.

Approval Pathway

The OMA considers that the planning approval pathway for the conversion of a traditional sign to a digital sign is an important element to be included in the Guidelines. There are varied approval pathways for such a conversion which include a fresh development application or s96 modification application (Modification Application) made under the Environmental Planning and Assessment Act 1979. The OMA considers that a Modification Application approval pathway is appropriate in circumstances where the essential characteristics of the signage do not change.

An alternative would be to modify State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow a simple conversion from a traditional sign to a digital sign to be approved via a Complying Development Certificate (CDC). This would reduce administrative burdens on consent authorities by avoiding the need for a full merits assessment for a simple signage conversion (refer Attachment 1). This would align with the Legislation Updates' improvements to the CDC pathway.

RECOMMENDATIONS

By adopting the recommendations below, the NSW government will facilitate the achievement of positive road safety outcomes, while supporting the OOH industry, including NSW transport authorities, local councils, small businesses and charities.

1. The timely adoption and implementation of the Guidelines by DPE.
2. In relation to advertising signs in transport corridor land, the OMA recommends:
 - a. That the Standard LEP Instrument be revised to expressly permit advertising signage with consent on transport corridor land.
 - b. That Clause 16(4)(b) be deleted to reflect that advertising signage should be permissible with consent on transport corridor land.
 - c. That Clause 16(1)(a) and 16(1)(b) is revised to treat signage developed by private land owners equitably to signage developed by or on behalf of the RMS, Sydney Trains and NSW Trains.
3. In relation to upgrades of traditional signage to digital signage, we recommend:
 - a. That guidance as to the approval pathway for digitisation of signage be provided in the Guidelines to ensure appropriate conversions are not considered as new development but modification to existing development;
 - b. That the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 be modified to allow a simple conversion from a static sign to a digital sign to be approved via a CDC.

THE OOH INDUSTRY

The OMA is the peak national industry body that represents 90% of Australia's traditional and digital OOH advertising industry. Part of the role of the OMA is to develop constructive relationships with Federal, State and Local Governments to promote policy and regulation for outdoor advertising that is fair and evidence-based.

OMA members advertise 'third-party'⁴ products on digital and traditional signs across a variety of OOH formats and locations, including airports, bicycle stations, billboards, buses, bus stations, cafes, doctors' surgeries, free-standing advertisement panels, medical centres, office buildings and lifts, pedestrian bridges, railway stations, shopping centres, taxis, trains, trams, universities and street furniture (bus/tram shelters, public toilets, telephone booths and street kiosks).

OMA members are significant contributors to the Australian economy. The OOH industry adds approximately \$646.8 million to Australian GDP each year, and supports 3,100 full-time equivalent jobs. Not only does this signage provide a revenue stream to governments in rent and taxes, OMA members save governments money, through the construction and maintenance of essential community infrastructure like bus shelters.

CONCLUSIONS

The OMA is open to establishing a working group with DPE and other key stakeholders to ensure successful resolution to the abovementioned implementation issues.

We look forward to the DPE's review of our submission and welcome the opportunity to meet and discuss the key points raised. Please contact the OMA's General Manager, Government Relations, Tess Phillips, if you require any further information or would like to arrange a time to meet. Tess Phillips' contact details are telephone 9357 9900 or email tess.phillips@oma.org.au

Yours sincerely



Tess Phillips
General Manager, Government Relations

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Attachment 1: OMA Submission to Draft transport corridor outdoor advertising and signage guidelines

⁴ A sign advertising goods and/or services **not** associated (sold, stored or manufactured) on the site/premise on which the advertising sign is located.