OMA Submission

To

NSW Planning System Review

Prepared by
Urban Concepts

in association with
Outdoor Media Association

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OVERVIEW

BACKGROUND

This submission on the NSW Planning System Review has been prepared on behalf of the Outdoor Media Association of Australia (OMA). The submission builds on the first round of consultation discussions that were held between the OMA and the joint co-chairs of the Planning System Review, Tim Moore and Ron Dyer in November 2011. The submission has been prepared by Belinda Barnett, Director Urban Concepts in consultation with the outdoor advertising industry on behalf of the OMA.

The submission is structured in two parts. The first part 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 and the key planning issues confronting the development of outdoor advertising assets in NSW. The second part of the submission details the OMA's recommendations to the questions that have been raised in the paper titled The Way Ahead for Planning in NSW, Issues Paper of the NSW Planning System Review dated December 2011.

The OMA applauds the NSW Government for taking the initiative in its first term of office to review the NSW planning system. In calling for the review, the Government has listened to concerns raised by the development sector as a whole in NSW, the frustration and delays of what has become out-dated legislation supported by adhoc and at times contradictory planning instruments. There can be no doubt that the introduction of a new and robust planning system will deliver major economic, social and environmental benefits to stimulate and enhance the performance and competiveness of the state both nationally and within world markets.

The OMA recognises that the outdoor industry has a duty of care to ensure that the development of outdoor assets occurs in a responsible manner and with the highest regard to public safety. The recent restructure by the State Government of the transport agencies as part of the reform agenda has the full support of the OMA. The Association is keen to work with Transport for NSW and the newly formed NSW Roads and Maritime Services (RMS) to develop appropriate road safety criteria that can be applied objectively to the assessment of development proposals for both electronic and static advertising signs.

For the OMA, a key driver of any new planning system will be recognition of the legitimate role that is played by outdoor advertising in today's commercial environment. The new planning system must enable the outdoor advertising industry to operate in a fair, reasonable and objective manner free of the bias and philosophical judgment that has been evident in many Local Government planning controls for outdoor advertising development proposals and which ultimately led to the introduction and gazettal of State Environmental Planning Policy No.64 Advertising and Signage (SEPP 64) in March 2001.

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 SEPP 64 review has been the subject of numerous submissions by the OMA to the NSW Department of Planning. Through this submission the OMA seeks to formalise these discussions as they relate to the development of outdoor advertising assets, given their relevance to the drafting of a new planning regime and instrument for NSW.

EXECUTIVE SUMMARY

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

   Recommendation

   The new planning regime must standardise definitions of advertisements, advertising structures and signs across all environmental planning instruments and adopted council policies. The definitions of signage should not distinguish between signs that relate to the premises on which they are located and those that do not.

2. In NSW, the opportunities for development of third-party outdoor advertising are limited, with only 1 approval for every 15 applications being made. This is at the cost of the outdoor advertising industry as well as private landowners who could benefit from the income provided by an advertisement on their property. In contrast, development of outdoor advertising on State owned land since the introduction of SEPP 64 in 2001 has seen 4 road-facing signs developed by the State for every 1 developed by the private sector. This suggests the current planning law is weighted in favour of the State.

   Recommendations

   a. Provisions relating to the design, placement and development of advertisements, advertising structures and signs should be retained within an overarching state wide environmental planning policy or within a mandatory guideline document referenced through the standard instrument.

   b. The new planning regime must provide a level playing field for both public and private organisations and agencies that are involved in the development of outdoor advertising assets. This may be achieved if the state wide environmental planning policy or mandatory guideline document extends the permissibility of advertising on "transport corridor land" under SEPP 64 (clause 16) to private land within 250 metres of a road or railway corridor.

   While the OMAs members recognise that much of the prime real-estate for signage development is on State land along major roads, this outcome would ensure that development on private land is given equal opportunity.

3. The Standard LEP Instrument does not expressly permit signage in the SP1 and SP2 Zones. These Zones are typically applied along State road and rail corridors. Under Clause 16(4)(b) of

SEPP 64 the rules that permit signage in transport corridors do not apply where such is prohibited under an LEP made subsequently. The outcome is that LEPs modelled on the Standard Instrument are prohibiting signage on State road and rail corridors.

Recommendation

The Standard Instrument must be revised to 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.

4. SEPP 64 prohibits signage in certain zones. The OMA submits that signage should therefore be permissible in all other zones. Further, 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. In these cases, there should be an opportunity for signage to be permitted at appropriate sites, thereby benefitting local businesses as well as local land owners who can benefit from the income stream.

   Recommendation

   a. The new planning regime must provide for the inclusion of advertising, advertising structures and signage as mandatory permissible land uses in special infrastructure, business, industrial, rural and mixed use zones prescribed under the standard LEP template.

   b. The new planning regime should allow for merit assessment of signage in the zones where it is currently prohibited under Clause 10 of SEPP 64.

5. Planning assessment based on numerical compliance as it relates to advertising signs is unworkable for many large format proposals and fails to have regard to the specific opportunities that often render a site highly desirable for the display of a large format outdoor advertisement.

   Recommendation

   The new planning regime must provide for merit based assessment for development applications requiring consent.

6. Under the current planning regime, RMS concurrence is required for applications on private land in certain circumstances but not on State transport corridors, The OMA's members consider this to be an unequitable distinction.

   Recommendation

   The new planning regime must provide for a concurrence role for the RMS that relates to traffic safety assessment against agreed traffic safety criteria for static and electronic signage displays proposed along classified roads.

7. The new planning regime must provide for the delegation of RMS concurrence powers to Local Government Authorities for certain applications.

8. The OMA and its members have been engaging with the Department of Planning and Infrastructure, the RMS (formerly the RTA) for over 3 years, in an attempt to achieve appropriate and evidence-based regulations for LED signage displays. Significant delays have been caused by the RMS and the main issue is how long a static image must be displayed on the sign before changing to the next image ('dwell time'). The OMA has suggested a dwell time of 8 to 10 seconds, and the RMS's last suggestion was 15 to 30 seconds. The OMA's suggestion is in line with international and national standards and precedents, however the RMS has not provided persuasive evidence to support their suggestion. RMS's risk aversion is causing unnecessary delay and stunting the growth of the industry in NSW.

   While the delays continue, the OMA's members are not able to install LED signs and yet the numbers of un-regulated signs on hotels, clubs, retail outlets and mobile displays continue to proliferate unchecked.

Recommendation

The new planning regime must incorporate an agreed and reasonable set of criteria against which LED displays can be assessed.

9. The levying of public benefit contributions by a Consent Authority in respect of an advertising asset must be fair, reasonable and relative to the construction value of the advertising proposal and its environmental impact. In the current system, Consent Authorities are requiring unjustifiably large public benefit contributions that make development unviable.

   Recommendation

   The new planning regime must provide a standardised framework for the levying of the contribution upfront so that there is certainty for the applicant as to the monetary value of the contribution that will be payable in the event the application is approved. The OMA supports a system that imposes a licence fee, based on the square metre size of the proposed sign, rather than a public benefit contribution.

10. There is confusion under the current planning regime as to how street furniture, such as advertising bus shelters, should be assessed, including in relation to the prohibitions in Clause 10 of SEPP 64.

    Recommendation

    The OMA submits that the provision of street furniture incorporating advertising should be able to be dealt with as exempt or complying development where it is to be located adjacent or on transport corridor land notwithstanding the land use zoning of that land.

11. The cost of the appeals process in NSW is prohibitive. 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.

    Recommendation

    The new planning regime must streamline review and appeal procedures to provide a cost effective dispute resolution and appeal process.

12. Certain types of advertisements and signs should be recognised as exempt development across all instruments. Refer to 3.11, below.

13. There should be greater scope for certain advertisements and signage structures to be assessed and certified as complying development. Refer to 3.11, below.

PART 1

PART 1

1. Overview of the Outdoor Media Association and the Planning Issues confronting the Outdoor Media Industry in NSW

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 and 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 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

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 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 8.2 metres x 2.2 metres, they are often mounted on freestanding pylons, walls and bridges.

In additional 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

A street furniture structure – kiosk

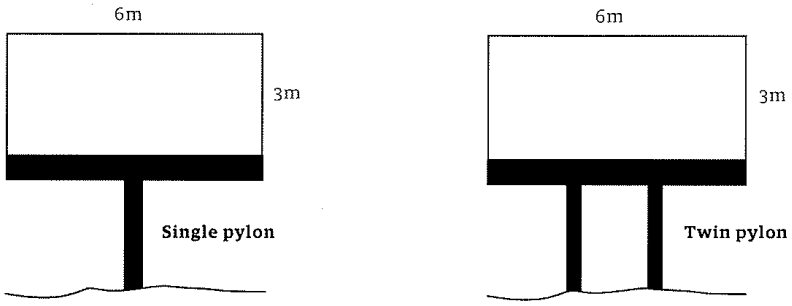
A street furniture structure – bus shelter

A street furniture structure – public toilet

Figure 1.1 Advertising Formats

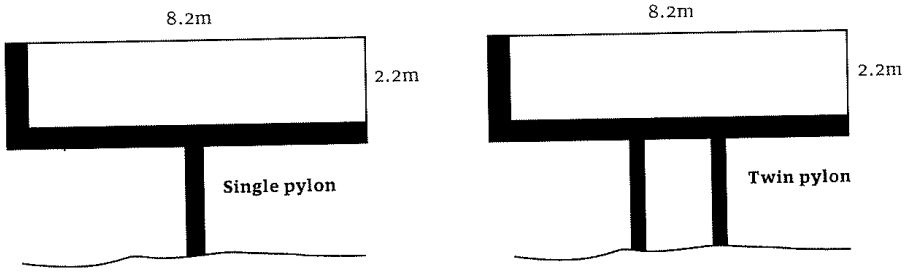
The outdoor advertising industry uses the following standard sizes of billboards.

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



- 2:1 Artwork ratio

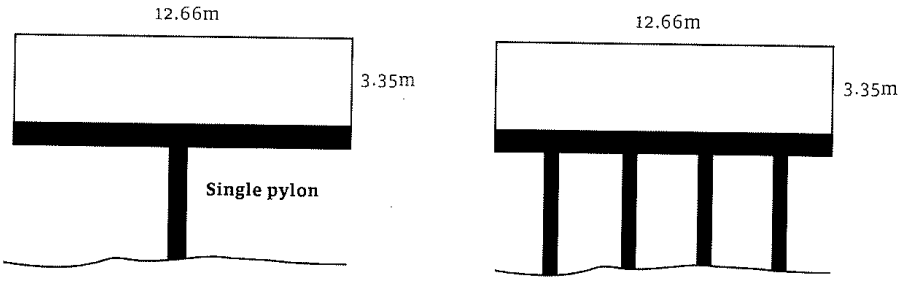
(B) 8.2 metres x 2.2 metres (42.41 square metres)



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

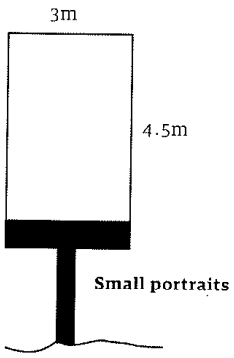
Figure 1.1 Advertising Formats

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



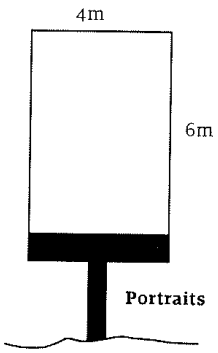
- 4:1 Artwork ratio
- Industry term 'Supersite'

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



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

(E) 4 metres x 6 metres (24 square metres)



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

2. The Existing Statutory Planning Environment

The OMA engaged HWL Ebsworth Lawyers to prepare an overview of the key statutory planning instruments that impact on the permissibility and development consent processes in NSW for outdoor advertising proposals. This section draws from that advice and provides the context and background for the discussion relating to the key concerns facing the outdoor media industry presented in Part 1 subsection 3.

2.1. Legislative Framework

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).

Environmental planning instruments include Local Environmental Plans (**LEPs**), State Environmental Planning Policies (**SEPPs**) and Regional Environmental Plans (**SREPs**) although the latter are now taken to be SEPPs (pursuant to Sch 6, clause 120 EPA Act 1979).

SEPPs may apply to the whole or a significant part of the State. State Environmental Planning Policy No. 64 Advertising and Signage (**SEPP 64**) applies to the whole of the state and since its gazettal in 2001 is the primary instrument governing the development of advertisements and advertising structures in NSW.

LEP's are environmental planning instruments that apply to a Local Government Area or part of a Local Government Area. Traditionally advertisements and advertising structures are recognised as a land use that is either permissible with or without consent or prohibited in a landuse zone prescribed under a LEP.

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 in to 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.

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 and the associated Transport Corridor Outdoor Advertising and Signage Guidelines 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

However, it is important to note that the provisions of SEPP 64 that allow advertising on State transport corridors do not apply where an LEP made subsequently prohibits such advertising. Refer to the discussion at 3.3.1, below.

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).

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.'*

2.5. 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.

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 LEPs 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.

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 recognition by Local Government of SEPP 64 as the primary planning instrument applying to large format advertising and signage proposals or the inclusion of the assessment criteria contained in SEPP 64 in a mandatory guideline document referenced through the Standard Instrument. Further, the state wide environmental planning policy or mandatory guideline document should extend the permissibility of advertising on "transport corridor land" under SEPP 64 (clause 16) to private land within 250 metres of a road or railway corridor.

While the OMAs members recognise that much of the prime real-estate for signage development is on State land along major roads, this outcome would ensure that development on private land is given equal opportunity. This in turn will benefit landowners and local businesses.

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, Transitways, 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 LEPs modelled on the Standard Instrument are effectively prohibiting signage on State road and rail corridors.

It is imperative that the Standard Instrument be revised to 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.

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 (as identified in point 3.3.1 above)

It is the position of the OMA that the Standard Instrument should be amended to make advertisements, advertising structures and signage permissible land uses within these land use zones. This advice should then be communicated to Local Councils as part of any future planning circular providing guidance on the drafting of a Standard Instrument.

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
- 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. It is recommended that Clause 10 of SEPP 64 be either revised or deleted from the SEPP.

The OMA would expect to be consulted in relation to the development of a merit based assessment process for signage applications.

3.4. Advertising Content

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.

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.

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.

As the Road Safety Act 1993 provides the RMS with widespread powers in the event that sign content is deemed to be a traffic hazard, it is not considered necessary or desirable for further controls to be introduced to govern the matter of appropriate creative content.

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.

3.5. Merit Based Assessment

A planning assessment based on merit assessment is preferable to a numerical based approach. Planning assessment based on numerical compliance as it relates to advertising signs is unworkable for many large format proposals and fails 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 similar to those applied in Schedule 1 of SEPP 64, in preference to numerical standards for advertising proposals, will achieve better design outcomes and a greater level of integration of outdoor advertisements within urban and rural environments.

Sub section 1.5 of this submission has described the range of large format advertisements and signs that underpin the outdoor advertising industry. It is fundamental to the operation of the industry that planning provisions recognise the type of advertising assets that are developed by the industry and their third party content requirement (as discussed in point 3.1). A directive should be issued to Council that environmental planning instruments and development control plans must recognise general advertising in large format and incorporate appropriate merit based consideration to enable a fair and reasonable assessment of an advertising proposal. Provisions that are regarded by the OMA to be relevant considerations in the assessment of outdoor advertising proposals are discussed in sub section 3.10.

Fundamental to this is a requirement for advertisements, advertising structures and signs to be mandatory permissible land uses within appropriate land use zones. Appropriate land use zones are considered by the OMA to be rural, business, industrial, mixed use and infrastructure as discussed in Sub Section 3.2.

The OMA would expect to be consulted in relation to the development of a merit based assessment process for signage applications.

3.6. The role of the 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. At the present time applications that are being progressed on private land utilising these forms of technology are being refused concurrence by the RMS without any grounds for traffic safety impact being sustained or founded in legislation. At the same time, applications on road and rail corridor land that are made by the RMS or RailCorp do not require RMS concurrence as a requirement of development consent, regardless of whether they are for static, LCD of LED displays. This is not considered by the OMA to be consistent with a fair and equitable planning system.

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 require RMS concurrence against an agreed set of traffic safety criteria. The criteria must be capable of assessment and for certain applications, it would be reasonable for RMS concurrence powers to be delegated to the local consent authorities as part of the standard departmental referral process that currently occurs for development applications requiring Council approval. For those applications requiring RMS consideration, they could be referred to local traffic management committees for review and approval.

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 20,000-50,000 hours. Another significant advantage of LEDs is that they can be used in at 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 feedcycle 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 15 seconds for roads that have a 50 kilometre per hour speed limit or less and 30 seconds for roads having a 60 kilometre per hour speed limit or more. 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 10 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 competiveness of the industry within NSW and the continued the growth of the industry within global markets.

3.8. Public Benefit Provisions

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 these applications 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 is an appropriate public benefit provision for any given advertisement.

It is the experience of some OMA members that the consideration of what constitutes an appropriate public benefit contribution is delaying 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. For example, Section 94 contributions for residential and commercial projects are not levied on the sale value of a residential or commercial strata apartment. For these developments the Consent Authority must substantiate a nexus between the proposed use, its impact on local services and the Section 94 contribution that is being sought. Further, under a Section 94 contribution plan a local council must demonstrate how the contribution will be spent. In these situations, a contribution is established upfront in the Section 94 Contributions Plan for open space, stormwater, car parking, community facilities and the applicant is fully aware at the start of the development application process the extent of the contribution that will be imposed. The contribution does not become the basis for negotiating a development consent.

A pre-determined framework is required to quantify the public benefit contributions for advertisement proposals. In the past, outdoor advertising signs were subject to an annual licence fee that was payable to a consent authority. This fee was based on the square metre area of the sign and was known as an Ordinance 55 licence fee. It was levied under the Local Government Act. The fee term was established by the development consent term for a specific sign.

The OMA considers that the Ordinance 55 model that applied a value per square metre should be used as the basis for establishing a licence fee for advertising proposals, rather than a public benefit contribution. Such a licence fee framework has the potential to raise hundreds of thousands of dollars for Local Councils. The licence fee framework should be published, and applied consistently to State and private signage developments. However, if the monetary payment is to be referred to as a 'public benefit contribution' rather than a 'licence fee', a plan should be established which demonstrates how the contribution will be used by the Consent Authority to improve local community services and facilities.

The OMA would expect to be consulted in due course to provide input about the detail of the licence fee framework.

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.

It is considered that the provision of street furniture incorporating advertising should be able to be dealt with as exempt or complying development where it is to be located adjacent or on transport corridor land notwithstanding the land use zoning of that land.

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 (or as exempt and complying development in certain situations) within rural, business, industrial, mixed use and infrastructure zones

Provisions enabling the consideration of applications pertaining to the incorporation of advertising structures in heritage conservation areas, natural or conservation areas, open spaces, residential zoned land 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. 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. 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. It is recommended that Clause 10 of SEPP 64 be either revised or deleted from the SEPP.

The OMA would expect to be consulted in relation to the development of a merit based assessment process.

3.10.2. SEPP 64 Criteria

The OMA considers that the criteria detailed in Schedule 1 of SEPP 64 (and reproduced as Figure 3.1 in this submission) are appropriate and relevant consideration against which outdoor advertising proposals should be assessed.

At the present time SEPP 64 establishes development standards for specific advertisements being wall, bridge, roof and freestanding advertisements. Generally, the OMA would support the retention of the SEPP 64 provisions for these advertising displays 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.
- 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.
- Introduction of merit based assessments for applications within Council areas where conservation or protection areas apply to the majority of the Council area (refer also to 3.10.1, above). For example, in the Woollahra Foreshore Scenic Protection Area signage could be considered for sites that are not visible from the foreshore and sites where there is no view of the foreshore.

3.11. Exempt and Complying Developments

The OMA would encourage greater consideration being given to the use of exempt and complying 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 asks that consideration be given to making the following works and advertisements exempt development across all Local Government Areas in NSW:

- Expanding the exempt development provisions contained in SEPP 64 Clause 33(d) 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 where it is located in a business, industrial, mixed use or infrastructure zone.
- Advertisement and signs that replace one of the same size lawfully displayed on the same structure.
- An advertisement and any structure not visible from outside the site on which they are displayed.

In respect to complying development, the OMA asks that consideration be given to making the following advertisements complying development across all Local Government Areas:

- Bridge and wall advertisements, internally and externally illuminated, not having an advertising display area above 20 square metres and not being displayed above 8 metres in height, being Super 8 and billboard advertisements that display static advertising copy only and located on land zoned business, industrial, mixed use and infrastructure.

PART 2

PLANNING REVIEW QUESTIONS RAISED

PART 2 QUESTIONS RAISED

A – Introduction

A1	What should the objectives of new planning legislation be?
A2	Should any overarching objectives be given weight above all other considerations?
A3	Should there be strict controls in plans?
A4	Should applications that depart from development controls be permitted?
A5	What should the test be for a proposed variation?
A6	Should new planning legislation provide a framework for regional strategic planning processes? If so, how should appropriate regions be determined for strategic planning?
A7	Should strategic plans be statutory instruments with greater weight?
A8	How should implementation of strategic plans be facilitated?
A9	In a new planning system, how can we improve community participation opportunities? How can we improve consultation processes for plan making and development assessment?
A10	How should levies to pay for local and state community infrastructure be set?
A11	What alternatives to – or additional funding sources for – such infrastructure should be c onsidered?
A12	Who should decide regionally significant development and local development applications?
A13	Should Joint Regional Planning Panels decide development applications? If so, which applications should the panels decide? Who should identify these?
A14	Should councils be able to apply to be exempt from the Joint Regional Planning Panel process?
A15	Should any changes be made to complying development and the process of approving it?
A16	What changes should be made to the private certification system?
A17	How can private certifiers be made more accountable?
A18	Should there be a right of review or appeal against a council decision concerning the zoning of a property?
A19	Should there be any distinction between a council decision to change a zoning and a council refusing an application to change the zoning?
A20	If there is to be a right of appeal or review of a council zoning decision, who should decide that appeal or review?
A21	What are appropriate measures that might be implemented in a new planning system to create public confidence in the integrity of environmental impact statements (and their supporting studies) for major development projects?

OMA Comment:

The current planning regime is cumbersome for both administrator and applicant. It is a process that is constrained by bureaucracy and political intervention, and fails to install community confidence in the outcomes that it delivers.

A new planning system must be capable of review to enable it to keep pace with structural, political, attitudinal and technological change. For instance, over the next 5 years NSW may move to a regional system of Government. A new planning regime must be able to adapt to this level of structural change.

A new planning regime must recognise the new imperatives:

- Climate change
- Environmental sustainability
- Affordable housing

- Infrastructure delivery
- Social and cultural impact
- Employment generation
- Technological change and social media
- Possible safety and health.

A new planning regime must be fair and equitable creating a level playing field for both private and public sector development opportunities.

It must acknowledge and facilitate complying development with reduced assessment timeframes and assessment cost. It must utilise exempt development provisions to reduce pressure on local and state bureaucracy.

For those seeking to review or appeal a planning determination it must provide for a cost effective process.

It must provide for timely and effective community engagement both within the plan making and development assessment processes.

Refer OMA concerns identified at:

- Part 1 Section 3.1 Anomoly between Local and State Planning Controls
- Part 1 Section 3.2 Limited number of Development Consents for Outdoor Advertising Proposals

B – Key Elements of Planning System Structure – Objectives

B1	What should be included in the objectives of new planning legislation?
B2	Should ecologically sustainable development be the overarching objective of new planning legislation?
B3	Should some objectives have greater weight than others?
B4	Should there also be separate objectives for plan making and development assessment and determination?
B5	Should the objectives address the operation of the new planning legislation?
B6	Are the current definitions in the Act still relevant or do they need updating?
B7	Does the present definition of 'development' need to be rewritten? If so, in what respect?
B8	Should there be a definition of 'minor'? If so, what should it say?
B9	Should 'public interest' be defined? If so, what should it say?
B10	Should there be one act or separate acts for different elements of the planning system?
B11	What should be in regulations?
B12	Should there be a statutory requirement to review legislation periodically? If so, at what interval?
B13	Should there be requirements to periodically review other planning instruments and maps?
B14	Should the information available about land on a central portal be able to be legally relied upon, if there is the ability for it to be certified for accuracy?
B15	Would this be able to replace section 149 Planning Certificates?
B16	What provisions should there be for independent decision making?
B17	What should be the role of the Minister in a new planning system?

OMA Comment

The objectives that underpin a new planning act should be expanded. The OMA would support the drafting of new objects to reflect environmental sustainability and climate change. All objects of the Act should be given equal weight.

The OMA would support the introduction of separate objectives that recognise the importance of the plan making and development assessment process.

The OMA would support the redrafting and updating of definitions. Definitions should be standardised across all levels of planning instruments to avoid confusion and local bias. In respect to definitions relating to advertisements, advertising structures and signage the OMA recommends that these be standardised across state and local environmental planning instruments and development control plans. That is, the same definition must be prescribed across all instruments. It is also necessary that a definition be added to address new electronic advertisements employing LED technology and that this definition be incorporated into state and local environmental planning instruments, adopted Council codes or mandatory guidelines.

The Regulations that support the Act should be reviewed and used to prescribe planning process.

The Act, together with all environmental planning instruments should contain review provisions to ensure that they maintain their relevance. A 5 year review period is recommended as this would address the current local, state and federal political terms of Government.

Advances in technology enable real time access to information, so planning controls for all Councils should be available online. The accuracy of this information should be able to be relied upon and it should be readily accessible with real time 24/7 access.

Refer OMA concerns identified at:

- Part 1 Section 3.1 Anomoly between Local and State Planning Controls
- Part 1 Section 3.2 Limited number of Development Consents for Outdoor Advertising Proposals
- Part 1 Section 3.3 Zoning under the Standard Instrument
- Part 1 Section 3.4 Advertising Content
- Part 1 Section 3.5 Merit Based Assessment
- Part 1 Section 3.6 The Role of RMS Concurrence Provisions
- Part 1 Section 3.7 LED Signage Displays
- Part 1 Section 3.8 Public Benefit Provisions
- Part 1 Section 3.10 Appropriate Planning Considerations
- Part 1 Section 3.11 Exempt and Complying Development

C – Plan Making

C1	Should there be an independent State Planning Commission to undertake strategic planning? Or should there be an independent Planning Advisory Board?
C2	Should regional organisations of councils be recognised in new planning legislation?
C3	Should new legislation prescribe a process of community participation prior to the drafting of a plan?
C4	Should there be required consideration of the 'public interest' in the plan making process?
C5	Should there be a definition of what constitutes the 'public interest'? And what should it say?
C6	Should plans and associated maps have prescribed periodic reviews?
C7	At what suggested intervals should such reviews occur?
C8	How can new planning legislation co-ordinate with council planning under the Local Government Act?
C9	What information and data should be used when preparing plans?
C10	Should there be a requirement to make it publicly available?
C11	Should there be a requirement for plans to address climate change?
C12	Should biodiversity and environmental studies be mandatory in the preparation of plans?
C13	How should landscapes of Aboriginal cultural heritage significance be identified and considered in plan making?
C14	Should new planning legislation provide a statutory framework for strategic planning?
C15	Should strategic plans be statutory instruments that have legal status?
C16	How can the implementation of strategic plans be facilitated?
C17	To which geographical regions should strategic plans apply – catchments or local government areas?
C18	Should there be State environmental planning policies? If so, should they be in a single document? Or should they be provisions in a local environmental plan?
C19	Should there be statutory public participation requirements when drafting SEPPs?
C20	Should a SEPP be subject to disallowance by Parliament?
C21	Should there be a review process to deal with issues arising between the Department and councils that relate to the preparation of local environmental plans?
C22	Should there be a legislative provision to establish this?
C23	How should rezonings (planning proposals) be initiated?
C24	How can amendments to plans be processed more quickly?
C25	Should there be a right of appeal or review for decisions about planning proposals?
C26	Should there be a right for a landholder to seek compensation for the consequences of a rezoning of their land?
C27	When local environmental plans are being made or amended, how can transparency and opportunities for negotiation be improved during consultation with government agencies?
C28	Should some individual rezonings not require any merit consideration at a state level?
C29	What should be the processes prior to listing an item of local heritage in an LEP?
C30	Should student housing be included as affordable housing?
C31	How can abuses of 'student housing' be prevented?
C32	What should be the legal status of a DCP?
C33	Should there be a standard template for DCPs?
C34	How should new planning legislation facilitate cooperative cross-border planning between councils?

C35	Should a program be developed to integrate Aboriginal reserves properly into a new planning system and, if so, how should that program be developed and what timeframe could be targeted for its implementation?
C36	Should developers of greenfield residential land release areas be required to make provision for a registered club and associated facilities?
C37	Who should have responsibility for planning in the unincorporated area of the State?

OMA Comment and Recommendation:

There must be a clear framework for strategic planning and plan making. Facilitating sound strategic planning is an essential first stage in any planning process as it is these plans that deliver the confidence in the outcomes that are derived from the development assessment process. A successful plan making framework must be based on sound consultation with both the community, government agencies and industry groups that are involved in the urban and infrastructure development and the administration of our metropolitan and regional areas.

In respect to State Environmental Planning Instruments, the OMA is of the view that they must provide the over arching direction for Local Government, guiding the key elements and imperatives for local planning instruments, whether they be gazetted instruments or adopted council codes. There must be consistency across all levels of plans, and directions should be provided to local authorities to ensure that this occurs.

In respect to outdoor advertising, the OMA supports the retention of a State Environmental Planning Policy such as SEPP 64 and contends that it is essential to the ongoing viability of the outdoor media industry.

The OMA is very concerned that the Standard Instrument template has resulted in 'Advertisements' not being mandatory permissible uses in infrastructure, business, industrial, mixed use and rural zones. This is an example of a significant and detrimental anomaly within State Environmental Plans. Definitions relating to Advertising, Advertising Structures and signage must be standardised across all environmental planning instruments and adapted council policies. The definitions should not relate to content and should not distinguish between signs that relate to the premises on which they are located and those that do not.

There has been no consultation with the OMA concerning the Standard Instrument and its impact on the Outdoor Media Industry. Similarly, Local Councils in preparing Local Environmental Planning Instruments using the Standard Instrument template have not consulted with the OMA and the result is the introduction and gazettal of new Comprehensive LEP instruments that fail to recognise and provide for the development of outdoor advertising assets, which is contrary to the strategic direction that has been established under SEPP 64.

Refer OMA concerns detailed at:

- Part 1 Section 3.1 Anomoly between Local and State Planning Controls.
- Part 1 Section 3.2 Limited number of Development Consents for Outdoor Advertising Proposals.
- Part 1 Section 3.3 Zoning under the Standard Instrument
- Part 1 Section 3.5 Merit Based Assessment
- Part 1 Section 3.6 The role of the RMS – Concurrence Provisions
- Part 1 Section 3.8 Public Benefit Provisions
- Part 1 Section 3.10 Appropriate Planning Considerations
- Part 1 Section 3.11 Exempt and Complying Developments

D – Development Proposals and Assessment

D1	How should development be categorised?
D2	What development should be designated as State significant and how should it be identified? Should either specific projects or types of development generally be identified as State significant?
D3	What type or category of development, if any, should be identified as regionally significant and be determined by a body other than the council?
D4	What development should be exempt from approval and what development should be able to be certified as complying?
D5	How should councils be allowed local expansions to any list of exempt and complying development?
D6	Should there be a public process for evaluating complying development applications?
D7	Should there be an absolute right to develop land for a purpose permitted in the zone subject only to assessment of the form proposed?
D8	Should there be an automatic approval of a proposal if all development standards and controls are satisfied?
D9	Should conceptual approvals be available for large scale developments with separate components?
D10	Should a new planning system reinstate the ability to convert one nonconforming use to another, different nonconforming use?
D11	Should existing nonconforming uses be permitted to intensify on the site where they are being conducted (subject to a merit assessment)?
D12	Should existing nonconforming uses be permitted to expand the boundaries of their present site (subject to a merit assessment)?
D13	Should properties with existing nonconforming uses have access to exempt and complying development processes?
D14	When there is a change in zoning of the land, should an application be able to be made to a council for a declaration of the nature and extent of an existing use?
D15	Should there be a system of transferable dwelling entitlements to permit owners of an agricultural holding to: – transfer a dwelling entitlement from that land to another parcel of land?
D16	extinguish that dwelling entitlement on the original agricultural landholding?
D17	Should it be possible to apply for approval for development that is prohibited in a zone?
D18	Should there be a single application to the council to obtain permission to use an unauthorised structure?
D19	Where a small scale proposal requires an environmental impact statement, should it be possible to seek a waiver?
D20	Should dual service connections be permitted for residences in greenfield residential developments?
D21	What provisions, if any, should be made for pre-lodgement processes?
D22	How should Director-General's requirements fit in the planning process?
D23	How can the application process be simplified?
D24	Should there be standard development application forms that have to be used in all council areas?
D25	What public notification requirements should there be for development applications?
D26	How can the community consultation process be improved?
D27	Should deemed approvals take the place of deemed refusals for development applications?
D28	Should councils be able to charge a higher development application fee in return for fast-tracking assessment of a development proposal?
D29	If an application partially satisfies the requirements for complying development, should it be assessed only on those matters that are non-complying?
D30	How can unnecessary duplication of reports and information seeking be eliminated from the development process?
D31	How should State significant proposals be assessed?

D32	Should the Crown undertake self-assessment?
D33	Should the Crown undertake self-determination?
D34	Should councils undertake self-assessment?
D35	Should councils undertake self-determination?
D36	How can the integrity of an environmental impact statement be guaranteed?
D37	Should new planning legislation make provision for councils to appoint architectural review and design panels?
D38	What changes, expansions or additions should be made to the present assessment criteria in the Planning Act?
D39	Should the economic viability of a development proposal be taken into account in deciding whether the proposal should be approved or in the conditions for approval?
D40	Sometimes there are changes that would rectify problems with a proposal and thus permit its approval. Should it be mandatory during an assessment process for the consent authority to advise of this?
D41	Should a new planning system permit adverse impacts on the value of properties in the vicinity of a proposed development to be taken into account when considering whether a development should be approved?
D42	Should local development controls be allowed to preclude high-quality, environmentally sustainable, residential designs on the basis that they are inconsistent with the existing residential development in the vicinity?
D43	How can the planning system ensure that the impact of development that is remote from but directly affecting a community is taken into account in the assessment process?
D44	Should a consent authority be required to consider any cumulative impact of multiple developments of the same general type in a locality or region? Should this be a specific requirement in assessment criteria?
D45	As part of the assessment process for some classes of development projects, should there be a mandatory requirement in a new planning system for full carbon accounting to be considered?
D46	Should the broader question of the public benefit of granting approval be balanced against the impacts of the proposal in deciding whether to grant consent?
D47	Should a consent authority be able to take into account past breaches of an earlier development consent by an applicant in considering whether or not it is reasonable to expect that conditions attached to any future development consent would be obeyed?
D48	Should objections to complying with a development standard remain?
D49	Should an 'improve or maintain' test be applied to some types of potential impacts of development proposals?
D50	If so, what sorts of potential impacts should be subject to this higher test?
D51	Should there be a specific assessment criterion that requires risk of damage as a consequence of either short-term natural disasters or long term natural phenomenon changes to be included in development assessment?
D52	What water issues should be required to be considered for urban development projects?
D53	When development is proposed that has an impact on an existing, nonconforming residential use, should any special assessment criterion be required to take account of the residential use?
D54	Should new planning legislation fix a time at which a council assessment report concerning a development application is to be made available for access? If so, when should that be?
D55	When should an amended application be re-exhibited and when is a new application required?
D56	What are appropriate performance standards by which council efficiency can be measured in relation to development assessment?
D57	Should there be random performance audits of council development assessment?
D58	How should concurrences and other approvals be speeded up in the assessment process?
D59	What approvals, consents or permits required by other legislation should be incorporated into a development consent?
D60	Should a council be able to delegate to a concurrence authority power to impose conditions on a development consent after the council approves the proposal?

D61	Should there be some penalty on a council if a referral to a concurrence authority has not been made in a timely fashion?
D62	Who should make decisions about State significant proposals?
D63	What concurrence decisions should be able to be delegated?
D64	Should there be a model instrument of delegation?
D65	What decisions should the Planning Assessment Commission make? Should the Commission's processes be inquisitorial or adversarial?
D66	What should be the processes required for hearings of Planning Assessment Commission panels?
D67	Should a local member be on any Planning Assessment Commission panel considering a proposed development?
D68	If so, should this be mandatory for all commission panels?
D69	Should the development assessment criteria for the Planning Assessment Commission be the same as for any other development assessment process?
D70	Should a new planning system include Joint Regional Planning Panels?
D71	What should be the composition of a Joint Regional Planning Panel?
D72	What should be the hearing processes for a Joint Regional Planning Panel?
D73	Should a council be able to refer a matter to a Joint Regional Planning Panel for determination even if the matter would not ordinarily fall within the jurisdiction of such a panel?
D74	Should State nominated members of a Joint Regional Planning Panel be precluded from taking part in any decision concerning the local government area in which they reside?
D75	If a proposed development is recommended for approval by council staff, has no public submission objecting to it and is not objected to by the Department, should it be determined by the council?
D76	Should it be possible to constitute a Joint Regional Planning Panel with a single representative of each of the affected councils to consider and determine a significant development proposal that extends across the boundary between two local government areas?
D77	If located entirely within one local government area, should a significant development proposal that is likely to have a significant planning impact on an adjacent local government area be determined by such a two council panel?
D78	Should a council should be able to apply to the Minister to be exempt from a JRPP?
D79	Should aggregation of multiple proposals to bring them within the jurisdiction of a Joint Regional Planning Panel be banned if, separately, they would not satisfy the jurisdictional threshold?
D80	Should an elected council have the right to pass a resolution to supplement or contradict the assessment report to a Joint Regional Planning Panel?
D81	Should the Central Sydney Planning Committee be established under legislation for a new planning system or should it remain established by a provision of the City of Sydney Act?
D82	Should elected councillors make any decisions about any development proposals?
D83	What should be the requirement for a decision making body to give reasons for decisions – in particular as to why objections to a proposal have not been accepted?
D84	If a council resolves to approve a development proposal where the assessment report recommends rejection, should the council be obliged to provide reasons for approval of the development?
D85	Should approval of development proposals for quarries be removed from councils?
D86	Should there be a range of standard conditions of consent to be incorporated in development approvals?
D87	Should new planning legislation make it possible for public interest conditions to be imposed that go beyond the conditions that immediately relate to a particular development?
D88	Should nominated conditions of consent be able to be reviewed at regular, specified intervals?
D89	Should it be possible to grant a long-term time-limited development consent for developments that are potentially subject to inundation by sea level rise caused by climate change?

D90	Should consent authorities be prohibited from requiring public positive covenants as part of development approvals, if the matter could be dealt with by a condition of consent?
D91	Should new planning legislation make it possible to impose performance bonds or sureties unrelated to the protection of public assets?
D92	If so, should there be any restrictions on the reasons for which such bonds or sureties could be required?
D93	Should a new planning legislation system permit a council to impose a condition that requires payment of charges that would fall due under the Local Government Act?
D94	If there is to be a more concept based development application process, should councils have the power to impose conditions on construction approvals?
D95	Should IPART be given a general reference to examine and make recommendations about how any shortfall in development contributions plans for necessary community infrastructure should be funded?
D96	Should IPART be given a reference to make recommendations about what should be the extent, standard and nature of community infrastructure works that should be included in contributions plans?
D97	In light of the particular circumstances that might apply to the area covered in a contributions plan, should IPART be given a standing reference to enable councils to apply for variation to the cap on community infrastructure contributions?
D98	Is it reasonable to require IPART to undertake a detailed analysis of each contributions plan developed by councils?
D99	Would it be preferable to give IPART a general reference to develop an appropriate plan preparation methodology and approach to construction costing for community infrastructure contributions plans?
D100	Should IPART be given a reference to make recommendations as to when community infrastructure contributions should be available? Should this include recommendations as to whether a delayed payment system should apply and, if so, at what development stages payment should be made?
D101	Should there be a requirement for councils to publish a concise, simply written, separate document on community infrastructure funds collected and their proportionate contribution to individual elements in the council's contributions plan?
D102	Should IPART be given a reference to consider whether or not guidelines and/or mandatory requirements should be set for councils about community infrastructure prioritisation and levels of community infrastructure funds permitted to be available?
D103	Should new planning legislation make provision for voluntary planning agreements to permit departure from numerical limits that would otherwise apply to a development?
D104	Should any appeal be allowed against the reasonableness of a development contribution, if it has been approved by the Independent Pricing and Regulatory Tribunal?
D105	Should developer contributions apply to modifications of approved development?
D106	Should regional joint facilities funded by developer contributions shared between councils be encouraged?
D107	What should be the permitted scope of modification applications?
D108	Should there be a limit to the number of modification applications permitted to be made?
D109	Should any modification be able to be approved retrospectively after the work has been done?
D110	If so, should retrospective approval be confined only to minor changes and not more substantial ones? Should this be the case even if major changes leave the development substantially the same development as the one originally approved?
D111	Should minor modification applications made to the Planning Assessment Commission or Joint Regional Planning Panel approvals be decided without a public hearing?
D112	Should councils be able to deal with minor modification applications to major projects?
D113	Development applications that propose breaches to (or increases in breaches to) numerical limits in local environmental plans are subject to special tests. Should modification applications be subject to these same special tests?
D114	Should the 'substantially commenced' test for ensuring the ongoing validity of development consent be retained?
D115	If the present test was not retained, what new test should replace it?

D116	How long should development consents last before they lapse?
D117	Should private certifiers have their role expanded and, if so, into what areas?
D118	Should private certifiers be permitted, in effect, to delegate certification powers to other specialist service providers and be entitled to rely, in turn, on certificates to the certifier from such specialist professions?
D119	Should certifiers be required to provide a copy of the construction plans that they have certified (as being generally consistent with the development approval) to the council to enable the council to compare the two sets of plans?
D120	Should there be a requirement for rectification works to remove unacceptably impacting non-compliances when these are actually built rather than leaving an assessment of such non-compliances to either a modification application assessment or to the Court on an appeal against any order to demolish?
D121	What statutory compensation rights, if any, should neighbours have against a certifier who approves unauthorised works that have a material adverse impact on a neighbouring property?
D122	Should construction plans be required to be completely the same as the development approval and not permitted to be varied by a private certifier for construction purposes?
D123	Should developers be permitted to choose their own certifier?
D124	What should the Department's compliance inspection role be?
D125	Should Interim Occupation Certificates have a maximum time specified and, if so, how much should this be?
D126	Should a certifier issuing a Final Occupation Certificate be required to certify that the completed development has been carried out in accordance with the development consent?
D127	What might be done to have power delegated by the Commonwealth to State authorities or councils to give approval under the Commonwealth Act?
D128	Should there be a guide prepared to explain to councillors what their roles are in the development proposal assessment and determination process and how it is appropriate that they fulfil that role?
D129	If there were to be such a guide prepared, who should have the responsibility for its preparation and what participation and consultation processes should be undertaken in its development?
D130	Is it appropriate to consider, in legislation for a new planning system, providing a statutory basis for spreading the cost of a necessary rehabilitation or stabilisation measure across all property ownerships benefited by such a measure?
D131	Should there be specific statutory obligation to require the establishment of (and the procedures for) community consultation forums to be associated with major project developments?
D132	Should a quantity surveyor's report be required to accompany applications for large projects?
D133	What fees should councils receive for development applications?
D134	When and how should council development application fees be reviewed?

OMA Comment and Recommendation:

The OMA would support a more clearly defined separation between the various development assessment options:

1. Exempt development
2. Complying or Code assessment development
3. Merit assessment
4. Impact assessment

In respect to the activities that are conducted by OMA members in the maintenance and development of outdoor media assets, there are a number of works that should be able to be undertaken as exempt development. Many of these activities involve works associated with occupational health and safety upgrades to advertising structures that have been lawfully approved and are still the subject of current development consents. Under the provisions of Clause 33 of SEPP 64, State transport agencies, RMS and RailCorp, are able to undertake these works as exempt development, the OMA would recommend that the provisions be expended to include works undertaken to private outdoor advertising assets. Refer Part 1 Section 3.11 for additional commentary.

In respect to complying development (Refer Part1 Section 3.11for additional commentary), the OMA would support across all the sectors an increase in the number of development activities that can be considered and assessed as complying development. Specifically, if a mandatory guideline document is introduced to establish appropriate planning considerations for outdoor advertising assets as part of the Standard Instrument or if SEPP 64 provisions are retained in a State Environmental Planning Instrument then there is scope to identify advertisements and advertising structures that could be considered as complying development. The following advertisements would be an example of a development that could be considered as complying development:

- Billboard and Super 8 format advertisements that are to be placed on a wall or bridge where locations are below 8 metres in height, displays are non-illuminated or internally illuminated and accord with zone luminance provisions, and locations are zoned industrial, business, mixed use, infrastructure and are not heritage conservation or scenic protection areas.

The OMA would support merit based assessment for advertising assets requiring development consent. This would incorporate assets that require the concurrence of the RMS, advertisements incorporating LED displays, advertisements that are being progressed in residential, heritage or scenic protection areas. To this end, the OMA would recommend that advertisements should not be advanced as a prohibited land use in any zone but be open to a merit based assessment to determine whether they are an appropriate land use for any given site.

In undertaking a merit based assessment, the OMA does not support numerical compliance as the basis of determination but the assessment of an application against agreed criteria such discussed in Part 1 Section 3.10.

The OMA would support the delegation of RMS concurrence provisions to a local authority when it can be demonstrated through a specialist traffic report that an advertising proposal satisfies an agreed set of traffic safety criteria. In these situations an advertising application could be referred to a local traffic management committee as part of a local authority referral process if a broader review was required.

The OMA does not support a development determination process for advertising and signage proposals by State Government Transport Agencies, namely RMS and RailCorp, that nominates the NSW Minister for Planning as the Consent Authority. Ministerial powers should be retained under any new act for state significant development and critical infrastructure projects. All merit based development applications for advertising and signage should be determined by local authorities.

To facilitate fair and equitable decision making, the Planning Act should provide for independent peer review through specialist panels for development applications being assessed on merit or for non-conforming applications. In these instances, experts should be selected in conjunction with industry associations.

Refer OMA concerns detailed at:

- Part 1 Section 3.1 Anomoly between Local and State Planning Controls
- Part 1 Section 3.2 Limited number of Development Consents for Outdoor Advertising Proposals
- Part 1 Section 3.3 Zoning under the Standard Instrument
- Part 1 Section 3.4 Advertising Content
- Part 1 Section 3.5. Merit Based Assessment
- Part 1 Section 3.6 The role of the RMS-Concurrence Provisions
- Part 1 Section 3.7 LED Signage Displays
- Part 1 Section 3.8 Public Benefit Provisions
- Part 1 Section 3.9 Street Furniture Permissibility
- Part 1 Section 3.10 Appropriate Planning Considerations
- Part 1 Section 3.11 Exempt and Complying Developments

E – Appeals and Reviews

E1	What appeals should be available and for whom?
E2	Should anyone be able to apply to the Court to restrain a breach of the Act?
E3	In what circumstances should third party merit appeals be available?
E4	Should approval bodies or concurrence authorities be the respondent to some appeals?
E5	What should be the time limit for any appeal about local environmental plan provisions?
E6	Should the Court have absolute discretion as to costs orders? Or should the Court's discretion be limited and, if so, in what respects?
E7	Should any appeal be allowed against the reasonableness of a development contribution if it has been approved by the Independent Pricing and Regulatory Tribunal?
E8	What sort of reviews should be available?
E9	Who should conduct a review?
E10	What rights should third parties have about reviews? And what provisions should apply regarding the costs of the review?
E11	How might recommendations by the Planning Assessment Commission be reviewed?
E12	Do some present penalties need to be increased?
E13	What new orders should there be or what changes are needed to the present orders?
E14	How can enforcement be made easier and cheaper for consent authorities?
E15	Should councils have a costs or other remedy against private certifiers in certain circumstances?
E16	Should monitoring and reporting conditions be reviewable?
E17	Should there be an appeal right for third parties in proceedings against private certifiers?
E18	Should a consent authority have a wider right to revoke a development consent?
E19	Should councils have a statutorily created 'best endeavours' defence?
E20	Should council compliance officers be given rights of entry and inspection and of access to official databases for compliance and enforcement inspections under planning legislation on the same basis as they have such rights under the Local Government Act?

OMA Comment and Recommendation:

There is a need to provide an effective and cost efficient system for the review and appeal proceedings.

Very few OMA members will appeal a planning determination for refusal, given the cost of running appeal proceedings relative to the capital investment of an outdoor advertising asset. In those instances where an OMA member has pursued Local and Environment Court appeal proceedings it has usually involved the construction of the advertising support structure such as a pedestrian bridge.

The current Section 82A review provisions of the Act should be retained but require the establishment of an effective framework as to how they should operate. This framework should incorporate an independent review panel with the power to override a political decision of a Local Council. The OMA would support the introduction of a planning review and appeals system similar to that administered by the VCAT Tribunal in Victoria.

Refer OMA concerns detailed at:

- Part 1 Section 3.2 Limited Number of Development Consents for Outdoor Advertising Proposals

F - Miscellaneous

F1	What should be the role of the Department in implementing a new planning system? Should the role and resourcing of regional offices be embraced? And, if so, in what respects?
F2	What should be the role of councils in implementing a new planning system?
F3	What can be done to ensure community ownership of a new planning system?
F4	What actions can be undertaken by bodies preparing strategic plans to increase community engagement with the planning system?
F5	What changes can be put in place to ensure more effective cooperation between councils, government agencies, the community and developers within the planning system?
F6	What checks and balances can be put in place to ensure probity in the planning system?
F7	How can information technology support the establishment of a new planning system?
F8	Should the new planning system contain mechanisms for reporting on and evaluating objectives of the legislation?
F9	How should information about the planning system be made more accessible in a multicultural society?

OMA Comment and Recommendation:

The OMA supports the introduction of a New Planning Act for NSW and supports the Review of the NSW Planning System.

In respect to State and Local plans and planning processes prescribed under any new legislation the OMA would welcome consideration been given to the following miscellaneous considerations:

- Recognition of the OMA as a stakeholder that is to be consulted by Local Councils in the Plan Making Process. To this end. The OMA would support the formulation of a list of stakeholders which included professional associations with whom it should be mandatory for Local Councils to consult with in the preparation of Local Environmental Plans. The requirement to consult with these organisations should be directive to Council.
- A clear and transparent process is required that enables an applicant to establish at the outset of a development application process the monetary contribution should be kept separate, be it a Section 94 Contribution or a Public Benefit Contribution, as provided for under SEPP 64.

Refer OMA concerns detailed at:

- Part 1 Section 3.8 Public Benefit Provisions

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 any body 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 29 CURRAWONG AVENUE
LIGHTING NORMANHURST
DESIGN NSW 2076
ACN 002 105 268 TEL 02 9487 2119
ABN 83 002 105 268 Mob 0412 361 633

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 decent 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 EMITING 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/m^2).

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 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 dependant 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/m^2. 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, Brooking, 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 Daktonics, Sydney and two of the Dakronic engineers in Brooking, South Dakota.

During discussions, Daktonics indicated that an appropriate maximum day time luminance for electronic billboards with LED sources would be 6000 cd/m^2 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/m^2 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/m^2 .These luminances relate to Zones 2 and 3.

Within Zone 4 the maximum day time luminance would be 6000 cd/m^2 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/m^2 and 500 cd/m^2 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 Daktonic engineers confirmed that the luminances discussed are similar to those used within the USA for digital electronic billboards using LED light sources.

9. COMFIRMATIOM TESTS

After discussions with the Daktronic 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/m^2. The average out put of the sign was reduced to 6000 cd/m^2. 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/m^2. At the end of twilight the ambient illuminance was measured as 1 lux and the sign

luminance was measured as 340 cd/m^2. 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/m^2 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/m^2.

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

10. VARABLE 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/m^2.

11. PROPOSAL

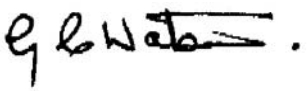
LED signage manufacturers have been consulted regarding luminances recommended for the various levels of luminance required by signage. A practical demonstration with luminances measured was carried out in Sydney with a large scale LED sign.

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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