



SUBMISSION

TO THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT

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SUBMISSION ON THE DRAFT SEPP 64 AMENDMENTS

Prepared by
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On behalf of
oOh!media

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PREAMBLE

This submission on the proposed amendments to State Environmental Planning Policy No. 64 Advertising and Signage (hereafter referred to as SEPP 64) has been prepared by Urban Concepts on behalf of oOh!media. oOh!media is Australia's largest out of home media company and is responsible for developing and managing a diverse portfolio of out of home advertising spaces in Australia and New Zealand.

In making this submission we will draw from oOh!media's 20 plus years of experience in developing road, retail, airport and commercial out of home signage assets across Australia and New Zealand, the partnerships that they have formed with retail operators, institutional investors, property fund managers and commercial portfolio owners and their research and development activity in pioneering the introduction of digital technology for out of home advertising.

The submission is structured in four Parts:

- Part 1 addresses the operating context of the Out of Home Industry focusing on the key trends and drivers of growth that are impacting on the sector.
- Part 2 presents a suite of amendments that oOh!media would like the Department to consider as part of the 2017 SEPP 64 review.
- Part 3 presents amendments to facilitate the development of digital signage assets that achieve design excellence.
- Part 4 details the submission that oOh!media made to the 2015 exhibition of the Draft SEPP 64 Transport Corridor Advertising and Signage Guidelines 2015. It is imperative that the Department finalise the Guidelines as part of the 2017 review of the SEPP. The Guidelines are essential for establishing an effective statutory framework for the assessment of static and digital advertising signage applications in NSW.

PART 1

OUT OF HOME MEDIA - INDUSTRY OVERVIEW

1.1. Introduction

This part presents an overview of the Out of Home (OOH) Sector in Australia and the key trends and drivers of growth that define the current and future operating context of the sector. It draws on information that has been sourced from:

- The oOh!media website www.oohmedia.com.au;
- The research of the acclaimed Australian social researcher Mark McCrindle; and
- Research undertaken by oOh!media into the public perceptions of large format digital advertising.

OOh!media wants to ensure that the review of SEPP 64 results in a statutory framework that:

- Provides a fair and even playing field for the development of new advertising assets and the digital conversion of existing advertising assets across NSW by both public and private land owners.
- Amends those provisions of the SEPP that have become obsolete replacing them with a set of controls that will facilitate the development of high quality signage assets that achieve design excellence.
- Delivers a statutory framework that accords with the NSW Government's overarching review of the Environmental Planning and Assessment Act 1979 and the proposed changes that look to remove unnecessary complexity and return focus to delivering best practice planning outcomes.
- Facilitates the deployment of digital technology.

For this to occur, it is important to firstly understand the operating context of the OOH industry, the financial contribution the industry makes to the Australian media industry and how the evolution of new digital technologies is driving the growth of the OOH Sector.

The introduction of SEPP 64 in 2002 and its subsequent review and amendment in 2007 provided the OOH Sector with a consistent development assessment framework to advance new signage applications.

With the passage of time, the 2007 Amendments have begun to lose their effectiveness and relevance to the OOH Sector as a result of the technological advances to communications platforms in Australia and overseas.

At a time, when the Australian OOH Sector is achieving significant and sustained growth it is imperative that the 2017 review of SEPP 64 addresses these trends. Any amendments that are made to the SEPP must reinforce the vital role that signage and advertising plays in supporting the economy and how the deployment of digital technology is vital to maintaining this role.

The 2017 review of the SEPP must deliver a clear and objective assessment pathway in which both public and private sector applicants can have certainty that a signage development application will be managed and assessed by a Consent Authority in a timely, consistent and reasonable manner.

1.2. Out of Home Industry Dynamics and Drivers of Growth

The growth in the OOH Sector both within Australia and overseas is attributed to the underlying fact that advertising signs whether they be roadside large format signs, located on street furniture or at rail stations cannot be missed by passers-by. Put quite simply -they cannot be turned off, skipped or fast-forwarded by consumers.

Research undertaken on behalf of oOh!media estimates that in Australia we see on average 26 advertising faces per day as we go about our daily life.

Out of all traditional media, OOH advertising is consistently regarded by retailers and business as the most cost effective media for reaching advertising audiences relative to other forms of advertising, particularly television advertising.

The introduction of digital platforms will continue to drive the growth of the OOH Sector as it:

- Provides the ability for increased consumer engagement and interactivity. This allows advertisers to customise their messages to a specific location, time of day or special event. Digital innovation using Wi-Fi, QR codes, mobile technology and the like heightens the consumer experience and promotes the vitality of retail centres and business districts.
- Enables rapid content delivery allows contextual advertising opportunities that are real time and enable advertisers to provide sales or limited offers in response to real time market conditions.
- Extends the penetration or reach of a traditional static billboard and allows for greater functionality via the incorporation of destination marketing campaigns, local economic business initiatives for start-ups and creative companies and community and civic messaging.

1.3. Generational Change and the Out of Home Industry

Australian Social Researcher Mark McCrindle in his book 'The ABC of XYZ -Understanding The Global Generations' examines the marketing and retailing trends that apply to the Y and Z generations.

Generation Y are defined as those born between 1980 and 1994 inclusive. Generation Z (also referred to as Millenials) are those born between 1995 through to 2009. 2010 marks the start of the next 15-year generational span, Generation Alpha.

Understanding generational change and the expectation and behaviours of each generational span has important implications for the way urban centres develop. Planning policy that looks to regulate the development of urban centres should have regard to generational theory to ensure policies and controls stay relevant and responsive.

Today, Generation Z accounts for 19% of the Australian population and will make up 12% of the workforce by 2020. They are an essential demographic and user group and as such their perspectives and attitudes should be taken into consideration in the drafting of new planning policy.

They are particularly important when it comes to planning policy that looks to regulate the introduction of technology into the built environment. McCrindle states that:

Generation Z are the most materially endowed, technologically saturated, globally connected, formally educated generation the world has ever seen...

They are internationally connected and engaged through global brands and global technologies...

Generation Z, having used technology from the youngest age, have seamlessly integrated technology into almost all areas of their lives, thereby being known as digital integrators.'

It is Generation Z that is driving the introduction of digital technology for out of home media. It is Generation Z that advertisers are looking to attract through digital media advertisements. Planning policy that responds to the behavioural pattern of this user group is fundamental to the continued growth of the out of home sector and its international competitiveness on the world stage.

This view is reinforced by the social research of McCrindle:

'Generation Y and Z are the first media consumers to emerge with interactive media as the predominate means by which they consume messages...

Generations Y and Z are the most marketed to of all generations, largely due to technological advances from the internet to social media to smart phone apps. Now there are many ways for business to communicate their messages. However, one down side to this is that in marketing to Gens Y and Z we have to constantly refresh messages and techniques in order to maintain their attention...

When comparing Generations Y and Z with previous generations, it is clear that how decisions are made and how consumers are engaged have changed. Today we are dealing with consumers who need to be engaged more on the emotive than the cognitive scale. They have been influenced not just by the scientific method but also by virtual reality. So for them it is a world of experience-not just evidence...'

Source: McCrindle Mark, The ABC of XYZ Understanding the Global Generations, Published by McCrindle Research Pty Ltd, 3rd Edition, 2014.

1.4. Why the OOH industry needs a statutory framework that supports digital platforms

The introduction of SEPP 64 represented a significant planning milestone as it introduced a statutory framework that would apply to all land in NSW where signage and advertising was a permissible land use with consent under an environmental planning instrument.

The major review of the SEPP in 2007 resulted in the introduction of the Transport Corridor Outdoor Advertising and Signage Guidelines. As stated in the introduction to the Guidelines, their purpose is to outline 'best practice for the planning and design of outdoor advertisements in transport corridors'. The Guidelines are significant because they were the first planning document that recognised the standards for outdoor advertising formats that are applied by the out of home industry. The main formats being:

- Spectacular signs being displays over 50 square metres in area;
- Supersites being between 42 and 45 square metres in area; and
- Billboards being 24 square metres in area.

Over the past 48 months the Outdoor Media Association (oOh!media is a member of the Outdoor Media Association) has worked extensively with Transport for NSW and the NSW DPE developing digital guidelines for incorporation into the SEPP 64 Transport Corridor Advertising and Signage Guidelines.

The Guidelines were publicly exhibited between December 2015 and February 2016. A considerable period of time (some 16 months) has now elapsed since the draft Guidelines were placed on public exhibition. This time delay is now fuelling an environment of uncertainty within Local Government which is now proving detrimental to the OOH industry and is resulting in many Councils struggling to assess advertising signage applications that incorporate digital technology. Part 4 of this report reproduces the 2015 submission that oOh!Media made to the Department when the Guidelines were publicly exhibited.

Over the past twelve months three prominent NSW Councils have advanced development control plans that significantly impact on the advancement of the OOH Sector and contradict the original intent of SEPP 64 and

the draft digital guidelines. The Council of the City of Sydney, North Sydney Council and Newcastle Council have all advanced draft DCP's that look to prohibit or significantly constrain the introduction of third party signage and the application of digital technology across all signage categorisations.

This uncertainty may not be evident to the NSW Government Agencies that actively develop advertising signage in their own right as their development applications under SEPP 64 follow a development approval pathway that recognises the NSW Minister for Planning as the consent authority and not a local Council. The different approval pathway and statutory framework that exists for public and private landowners is now posing a very real threat for the viable growth of the OOH Sector in NSW. A threat that if unaddressed could place NSW at a competitive disadvantage with other Australian states.

In NSW if the regulatory environment fails to enable advertising structures to be developed across a range of land use contexts on both private and public land then there is a risk that companies will direct their marketing spend to those media sectors that provide greater exposure and market penetration ahead of OOH media. In this regard, it is essential that the Department advance amendments to SEPP 64 that will facilitate the development of new third party advertising structures statewide and provide for the digital conversion of existing third party structures that have a valid and legal consent.

The recommendations made in Part 2 of this submission look to promote a statutory framework that will efficiently and effectively integrate third party advertising assets and digital media into the built environment.

The 2017 review of SEPP 64 is vital to the future of the OOH industry. It is imperative that the Department finds the same foresight and evolutionary thinking that gave rise to the SEPP 64 in 2002. A major overhaul of the instrument is essential to ensure that it retains its relevance over the years ahead and keeps pace with technological and economic changes.

The amendments that are currently on exhibition fail to show an understanding of the OOH industry, the challenges that are facing the OOH Sector in NSW and the statutory limitations of the existing SEPP. If the review of SEPP 64 is limited to the current draft amendments the instrument will not provide for the growth of the industry and it will place NSW at a considerable disadvantage when it comes to investment by the OOH Sector in new digital platforms that are fundamental to the growth of the sector, and therefore broader economic growth going forward.

PART 2

SUGGESTED AMENDMENTS TO SEPP 64

2.1. Introduction

In this section we detail a range of amendments to SEPP 64 for the Department's consideration. The Draft SEPP amendments that are currently on exhibition while being welcomed, do not go far enough in correcting the deficiencies in the instrument that have now become apparent and do not provide a statutory framework that is responsive to the innovations and trends that are driving the growth of the OOH sector.

Clause 34 of SEPP 64 provides for the review of SEPP 64 every 5 years. Clause 34 is reproduced below.

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.*

We note that the last formal review of the SEPP occurred in 2007, some ten years ago. The 2017 review represents a major milestone for the state policy and it will have far reaching implications on the media industry if it does not holistically address some of the serious shortfalls that exist in the policy.

This section presents the amendments that we would recommend be made to the wording of specific clauses within the SEPP to ensure that it remains relevant to the industry until the next review occurs in 5 years' time.

2.2. Suggested Amendments To Existing SEPP 64 Provisions

Table 2.1 details the amendments that we would recommend being made to the respective provisions together with an explanation about why the provision is deficient in its current form.

TABLE 2.1 - PROPOSED AMENDMENTS TO SEPP 64

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
PART 1 PRELIMINARY		
<p>'Clause 3. Aims, objectives etc</p> <p><i>(1) This Policy aims:</i></p> <p><i>(a) to ensure that signage (including advertising):</i></p> <p><i>(i) is compatible with the desired amenity and visual character of an area, and</i></p> <p><i>(ii) provides effective communication in suitable locations, and</i></p> <p><i>(iii) is of high quality design and finish, and</i></p> <p><i>(b) to regulate signage (but not content) under Part 4 of the Act, and</i></p> <p><i>(c) to provide time-limited consents for the display of certain advertisements, and</i></p> <p><i>(d) to regulate the display of advertisements in transport corridors, and</i></p> <p><i>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</i></p> <p><i>(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.'</i></p>	<p>We would recommend that a subclause (f) be added to acknowledge the introduction of digital technology for signage across all of its categorisations being business and building identification signage and advertisements</p>	<p><i>(1) This Policy aims:</i></p> <p><i>(a) to ensure that signage (including advertising):</i></p> <p><i>(i) is compatible with the desired amenity and visual character of an area, and</i></p> <p><i>(ii) provides effective communication in suitable locations, and</i></p> <p><i>(iii) is of high quality design and finish, and</i></p> <p><i>(b) to regulate signage (but not content) under Part 4 of the Act, and</i></p> <p><i>(c) to provide time-limited consents for the display of certain advertisements, and</i></p> <p><i>(d) to regulate the display of advertisements in transport corridors, and</i></p> <p><i>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</i></p> <p>(f) To provide for the introduction of new technologies including but not limited to digital LED platforms for signage (Including advertisements)</p> <p><i>(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.'</i></p>
<p>Clause 4 Definitions</p>	<p>We would recommend that two new definitions be added to clause 4 to define the terms:</p> <ul style="list-style-type: none"> Public Benefit Digital signs <p>The term Public Benefit requires definition to provide greater certainty for Council's and proponents about how the benefit should be levied on advertising proposals that fall under Clause 18 or 24.</p>	<p>Definitions be added to Clause 4 for :</p> <p>Public Benefit</p> <p>Digital Sign</p> <p>The Definition for transport corridor land be modified to recognise land in private ownership within 250 metres of a Classified Road or a Rail Corridor.</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
	<p>The current Draft SEPP 64 Guidelines at Section 4 have broadened the application of public benefits to include annual fees, upfront payments and the potential for contributions in kind. It is unclear as to whether these payments would replace the public benefit or be in addition to the public benefit which is meant to be used to 'fund a public benefit works program developed in partnership with RMS and/or Transport for NSW in relation to public transport matters. This is discussed in greater detail in the comments relating to clause 13.</p> <p>A definition for the term 'digital sign' also needs to be added to the SEPP to promote greater understanding of the technology and consistency with the interpretation of the term. At the present time there is much disparity in the level of understanding that exists around digital signs with many Council's applying simplistic and emotive interpretations that compare a digital sign to a large television screen.</p> <p>Including a definition for a digital sign will also ensure consistency with the Draft SEPP Transport Corridor Guidelines 2015 which introduce traffic safety and illumination controls for their operation.</p> <p>We would also ask that the Department give consideration to amending the definition of Transport Corridor Land to include land that is in private ownership within 250 metres of a Classified Road or Rail Corridor. The SEPP 64 Guidelines recognise that the land use context of transport corridors where they are adjacent to</p>	<p><i>transport corridor land</i> means the following land:</p> <p>(a) land comprising a railway corridor,</p> <p>(b) land comprising a road corridor,</p> <p>(c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by the RTA or RailCorp.</p> <p>(d) land zoned commercial, retail, mixed use or, industrial under an environmental planning instrument and within 250 metres of land comprising a Road Corridor or Railway Corridor.</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
	commercial, retail, mixed use, entertainment or industrial centres is suited to the display of advertising signage. Expanding the definition to recognise land that is immediately adjacent to land that is zoned for road or rail infrastructure would reinforce the legitimacy of signage as a commercial asset and provide guidance to Councils when they are assessing applications for advertising signage on private land in these land use scenarios.	
PART 3 ADVERTISEMENTS		
10 Prohibited advertisements <i>(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:</i> <ul style="list-style-type: none"> 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 	<p>It is recommended that the Department modify the Clause 10 provisions to remove heritage areas as prohibited land for the display of advertisements.</p> <p>The Standard Instrument LEP Template that has been used by local consent authorities for the preparation of local environmental plans includes comprehensive controls to ensure that development does not adversely impact on items of heritage or conservation significance.</p> <p>We would encourage the Department to adopt a flexible and merit based planning approach that allows for the consideration of new and innovative forms of advertisements where they can be supported by an independent heritage impact assessment.</p>	10 Prohibited advertisements <i>(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:</i> <ul style="list-style-type: none"> 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
13 Matters for consideration <i>(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:</i>	<p>It is recommended that Clause 13(2)(b)(iii) and 13(3) be amended to provide greater certainty over the extent of public benefit that should be allocated to a advertising application for a digital sign to which clause 18 or 24 of the SEPP applies.</p>	13 Matters for consideration <i>(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 advertisement structure as the</i>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p><i>(a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and</i></p> <p><i>(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</i></p> <p><i>(c) satisfies any other relevant requirements of this Policy.</i></p> <p><i>(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:</i></p> <p><i>(a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and</i></p> <p><i>(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></p> <p><i>(i) design, and</i></p> <p><i>(ii) road safety, and</i></p> <p><i>(iii) the public benefits to be provided in connection with the display of the advertisement, and</i></p> <p><i>(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.</i></p>	<p>At the present time applications by state government agencies for digital advertising signs on transport corridor land (that are determined by the NSW Minister for Planning) provide a public benefit provision that equates to 5% of advertising display time for the promotion of community and road safety related messages. This display time is allocated to Transport for NSW for the display of driver safety promotion by the RMS or public transport related messaging. To standardise the public benefit provisions as they relate to digital signage applications it is recommended that the a 'Public Benefit' be defined to recognise the allocation of 5% of digital display time for community related and traffic safety messaging.</p>	<p><i>case requires:</i></p> <p><i>(a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and</i></p> <p><i>(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></p> <p><i>(i) design, and</i></p> <p><i>(ii) road safety, and</i></p> <p><i>(iii) the public benefits to be provided in connection with the display of the advertisement which in the case of a digital sign will constitute 5% of the approved display time, and</i></p> <p><i>(c) satisfies any other relevant requirements of this Policy.</i></p> <p><i>(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. In the case of a digital sign the public benefit will constitute 5% of the approved display time.</i></p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>14 Duration of consents</p> <p><i>(1) A consent granted under this Part ceases to be in force:</i></p> <p><i>(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</i></p> <p><i>(b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.</i></p> <p><i>(2) The consent authority may specify a period of less than 15 years only if:</i></p> <p><i>(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</i></p> <p><i>(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</i></p> <p><i>(c) the specification of a lesser period is required by another provision of this Policy.</i></p>	<p>The introduction of digital technology for signage has increased the capital costs and extended the asset life of an advertising sign.</p> <p>It is oOh!media's experience that the construction costs associated with a digital advertising sign of supersite dimensions (ie 42 sqm) are approximately \$300,000- \$500,000 compared to a traditional lightbox sign which is around \$50,000.</p> <p>Accordingly, it is recommended that the consent duration of a digital advertising sign be proportionality increased from 15 years to 20 years for a new sign.</p>	<p>14 Duration of consents</p> <p><i>(1) A consent granted under this Part ceases to be in force:</i></p> <p><i>(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</i></p> <p><i>(b) In the case of a digital advertising sign on the expiration of 20 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or</i></p> <p><i>(c) if a lesser period is specified by the consent authority, on the expiration of the lesser period.</i></p>
<p>15 Advertisements on rural or non-urban land</p> <p><i>(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.</i></p>	<p>Clause 15 recognises that signage can be a permissible use with consent under the land use zoning provisions that relate to rural or non-rural land. In these circumstances the inclusion of the requirement for a development control plan to be in place that has been prepared on the basis of advertising design analysis is considered to be restrictive and</p>	<p>15 Advertisements on rural or non-urban land</p> <p><i>(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.</i></p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>(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:</p> <p>(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:</p> <p>(i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and</p> <p>(ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,</p> <p>and the display of the advertisement is consistent with the development control plan, or</p> <p>(b) if no such development control plan is in force, unless:</p> <p>(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</p> <p>(ii) Specifies one or more of the following particulars:</p> <p>(A) The purpose for which the land or premises is or are used,</p> <p>(B) The identification of a person residing or carrying on an occupation or business on the land or premises,</p> <p>(C) A description of an occupation or business referred to in sub-subparagraph (B),</p> <p>(E) (Repealed)</p>	<p>no longer appropriate for inclusion in the SEPP.</p> <p>Clause 29 of the SEPP sets out the process that must be followed by a Council when they prepare a DCP based on advertising design analysis. Included in the provisions is a requirement for a consent authority to consult with the Outdoor Media Association (OMA). The OMA advises that it has never been called upon to participate in consultation associated with advertising design analysis.</p> <p>Part 3 of this submission presents a proposal for how design excellence provisions could be incorporated into the SEPP to replace the design advertising analysis provisions and includes examples to demonstrate why this is a preferred approach.</p>	<p>(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:</p> <p>(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:</p> <p>(i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and</p> <p>(a) unless the consent authority is satisfied that the advertising sign demonstrates design excellence in accordance with Clause 29 of this policy.</p> <p>(ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,</p> <p>and the display of the advertisement is consistent with the development control plan, or</p> <p>(b) If the land is within 250 metres of a classified road, the Roads and Maritime Services has granted concurrence for the sign.</p> <p>(b) if no such development control plan is in force, unless:</p> <p>(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</p> <p>(ii) Specifies one or more of the following particulars:</p> <p>(A) The purpose for which the land or premises is or are used,</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>(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.</p> <p>(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.</p>		<p>(B) The identification of a person residing or carrying on an occupation or business on the land or premises;</p> <p>(C) A description of an occupation or business referred to in sub-subparagraph (B);</p> <p>(E) (Repealed)</p> <p>(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.</p>
<p>16. Transport corridor land</p> <p>(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:</p> <p>a) the display of an advertisement by or on behalf of RailCorp on a railway corridor,</p> <p>b) the display of an advertisement by or on behalf of the RTA on:</p> <p>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</p> <p>ii. a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>iii. land that is owned, occupied or managed by the RTA and that is within 250 metres of a classified road,</p> <p>(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,</p>	<p>We support the proposed amendment to delete Clause 16 (4) (b) as detailed in the exhibited SEPP.</p> <p>As detailed in the comments for Clause 4 we request that the Department give consideration to amending the definition of 'Transport Corridor Land' to recognise land that is held in private ownership and which is within 250 metres from a Railway or Road Corridor where the land is zoned commercial, retail, mixed use or industrial under an environmental planning instrument.</p> <p>In making this recommendation we are not advocating that the Minister for Planning should be the consent authority for applications on private land we would see this function remaining with a local council.</p>	<p>16. Transport corridor land</p> <p>(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:</p> <p>a) the display of an advertisement by or on behalf of RailCorp on a railway corridor,</p> <p>b) the display of an advertisement by or on behalf of the RTA on:</p> <p>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</p> <p>ii. a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>iii. land that is owned, occupied or managed by the RTA and that is within 250 metres of a classified road,</p> <p>(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,</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(3) The Minister must not grant consent to the display of an advertisement in such a case unless:</i></p> <p><i>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</i></p> <p><i>b) the advice of any design review panel appointed by the Minister has been considered by the Minister, and</i></p> <p><i>c) the Minister is satisfied that the advertisement is consistent with the Guidelines.</i></p> <p><i>(4) This clause does not apply to the display of an advertisement if:</i></p> <p><i>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</i></p> <p><i>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).</i></p>		<p><i>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.</i></p> <p>d) The display of an advertisement on land that is within 250 metres of a Railway or Road Corridor where the land is zoned commercial, retail, mixed use or industrial under an environmental planning instrument and the relevant local council is the consent authority.</p> <p><i>(2) Before determining an application for consent to the display of an advertisement in such a case, the Minister for Planning or relevant local council may appoint a design review panel to provide advice to the Minister concerning the design quality of the proposed advertisement.</i></p> <p><i>(3) The Minister must not grant consent to the display of an advertisement in such a case unless:</i></p> <p><i>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</i></p> <p><i>b) the advice of any design review panel appointed by the Minister has been considered by the Minister, and</i></p> <p><i>c) the Minister is satisfied that the advertisement is consistent with the Guidelines.</i></p> <p>(4) The relevant local Council must not grant consent to the display of an advertisement in such a case unless:</p> <p>a) the Roads and Maritime Authority has granted its concurrence to the development application in accordance with Clause 17 and 18, and</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
		<p>b) the application has been advertised in accordance with Section 79A of the Act and the council has considered any comments received; and</p> <p>c) the advice of any design review panel appointed by the council has been considered, and</p> <p>d) the council is satisfied that the advertisement is consistent with the Guidelines.</p> <p>(5) This clause does not apply to the display of an advertisement if:</p> <p>a) the Minister or relevant local council determines that display of the advertisement is not compatible with surrounding land use, taking into consideration any relevant provisions of the Guidelines, or</p> <p>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 3)</p>
<p>19 Advertising display area greater than 45 square metres</p> <p><i>The consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:</i></p> <p>(a) <i>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</i></p> <p>(b) <i>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.</i></p>	<p>As detailed above at Clause 15, the provisions of the SEPP that rely on a development control plan being in place that has been prepared on the basis of advertising design analysis as prescribed under Clause 29 of the SEPP are redundant and should be replaced with a provision that requires an application for an advertising sign that has an advertising display area greater than 45 square metres to be accompanied by a statement of design excellence that has been prepared by a qualified architect, urban designer, landscape architect or industrial designer.</p>	<p>19 Advertising display area greater than 45 square metres</p> <p><i>The consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless:</i></p> <p>(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</p> <p>(a) <i>unless the consent authority is satisfied that the advertising sign demonstrates design excellence in accordance with Clause 29 of this policy.</i></p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>21 Roof or sky advertisements</p> <p><i>(1) The consent authority may grant consent to a roof or sky advertisement only if:</i></p> <p><i>(a) the consent authority is satisfied:</i></p> <p><i>(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</i></p> <p><i>(ii) that the advertisement improves the finish and appearance of the building and the streetscape, and</i></p> <p><i>(b) the advertisement:</i></p> <p><i>(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</i></p> <p><i>(ii) is no wider than any such part, and</i></p> <p><i>(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.</i></p>	<p>As detailed above at Clause 15 and 19 the provisions of the SEPP that rely on a development control plan being in place that has been prepared on the basis of advertising design analysis as prescribed under Clause 29 of the SEPP are redundant and should be replaced with a provision that has greater relevance to current planning practices that are being employed for development control. Accordingly, it is our recommendation that an application for a roof top or sky advertisement should be accompanied by a statement of design excellence that has been prepared by a qualified architect, urban designer, landscape architect or industrial designer.</p> <p>We would also advocate that a maximum consent duration of 10 years be removed.</p> <p>Prescribing a consent duration for a period that is less than the consent duration prescribed under Clause 14 is superfluous. It is our professional opinion that the provisions contained in Schedule 1 together with the introduction of Design Excellence provisions to replace the existing Advertising Design Analysis provisions would provide an appropriate level of development control to ensure that advertising signage delivers a high quality design outcome that recognises and responds to its environmental context.</p>	<p>21 Roof or sky advertisements</p> <p><i>(1) The consent authority may grant consent to a roof or sky advertisement only if:</i></p> <p><i>(a) the consent authority is satisfied:</i></p> <p><i>(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</i></p> <p><i>(ii) that the advertisement improves the finish and appearance of the building and the streetscape, and</i></p> <p><i>(b) the advertisement:</i></p> <p><i>(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</i></p> <p><i>(ii) is no wider than any such part, and</i></p> <p><i>(b) 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.</i></p> <p><i>(b) unless the consent authority is satisfied that the advertising sign demonstrates design excellence in accordance with Clause 29 of this policy.</i></p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>(2) A consent granted under this clause ceases to be in force:</p> <p>(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</p> <p>(b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.</p> <p>(3) The consent authority may specify a period of less than 10 years only if:</p> <p>(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</p> <p>(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.</p>		<p>2) A consent granted under this clause ceases to be in force:</p> <p>(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</p> <p>(b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.</p> <p>(2) The consent authority may specify a period of less than 10 years only if:</p> <p>(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</p> <p>(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.</p>
PART 4 MISCELLANEOUS		
<p>29 Advertising design analysis</p> <p>(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:</p> <p>(a) the existing character of the area or locality, including built forms and landscapes,</p> <p>(b) the key positive features of the existing character of the area or locality,</p> <p>(c) the desired future character of the area or locality,</p>	<p>Clause 29 of the SEPP sets out the process that must be followed by a Council when they prepare a DCP based on advertising design analysis. Included in the provisions is a requirement for a consent authority to consult with the Outdoor Media Association (OMA). The OMA advises that it has never been called upon to participate in consultation associated with advertising design analysis.</p>	<p>29 Advertising design analysis</p> <p>(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:</p> <p>(a) the existing character of the area or locality, including built forms and landscapes;</p> <p>(b) the key positive features of the existing character of the area or locality;</p> <p>(c) the desired future character of the area or locality;</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
<p>(d) the role of outdoor advertising.</p> <p>(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.</p>	<p>Accordingly, the advertising and signage development control plans that are in place do not reflect industry views and as such do not meet the requirements of this clause. It is our recommendation that the Clause 29 provisions contained in the SEPP are redundant and should be repealed and replaced with a provision that requires an application for an advertising sign to which Clause 15, 19 or 21 applies to be accompanied by a statement of design excellence that has been prepared by a qualified architect, urban designer, landscape architect or industrial designer.</p>	<p>29 Advertising Design Analysis (Repealed)</p> <p>To be replaced with</p> <p>29. Advertising Sign Design Excellence</p> <p>(1) A Council in assessing a advertising sign application for the purpose of Clause 15, 19 or 21 is to take into consideration whether the sign achieves design excellence.</p> <p>(2) In determining whether a sign achieves design excellence the Council is to consider a written statement prepared by a qualified architect, urban designer, landscape architect or industrial designer addressing each of the considerations set out in (3).</p> <p>(3) Design Excellence Assessment Criteria:</p> <p>(a) Does the sign enhance the character of the area, the streetscape and if applicable the architecture of the building on which the sign is located?</p> <p>(b) Does the sign positively contribute to and is it consistent with the range of uses in the area and the intensity of activity in the public domain?</p> <p>(c) Does the sign create interest in the public domain through architectural detailing, use of materials or the enhancement of views;</p> <p>(d) Does the design quality of the sign demonstrate creativity and innovation, through the use technology or artistic, cultural or human endeavour?</p> <p>(e) Is there a commitment and demonstrated capacity to provide high quality and well-designed content for a digital signs?</p>

SEPP 64 PROVISION	EXPLANATION	RECOMMEND CHANGE
		<p>(f) Does the sign meet objectives and general requirements for signage under Clause 3 and the assessment criteria under Schedule 1</p> <p>(g) Is there an impact on road safety?</p> <p>(h) Is there an impact on the amenity of surrounding land uses, scenic quality and users of the public domain?</p>

2.3. Suggested New Provisions to be Incorporated into SEPP 64

The following considerations are put forward based on oOh!media's and Urban Concepts collective experience in developing static and digital advertising signs over the past twenty years. They relate to:

- The incorporation of provisions that recognise the digital conversion of a static advertising signs to digital advertising signs using the Section 96 Modification provisions that are embodied in the Environmental Planning and Assessment Act 1979.
- The incorporation of economic criteria in the Schedule 1 Assessment Criteria of SEPP 64.
- The use of complying development certification for static illuminated advertising signs up to 20 square metres in area.

2.3.1. Recognise the existence of a legal and valid consent for an existing static sign when progressing an application for digital conversion

In our experience, the conversion of a static advertising sign to one that employs digital technology is generally being assessed as if it were a new signage asset. At the present time, in the vast majority of cases, a new development application is being prepared and lodged for the digital conversion of existing advertising signage assets.

In those circumstances where an existing illuminated static sign has a legal and valid consent we advocate that the conversion of the sign to digital technology should occur under the Section 96 Modification Provisions that are prescribed in the Environmental Planning and Assessment Act 1979.

The Statement of Environmental Effects (SEE) that accompanies an application for the digital conversion of an existing advertising sign in our opinion should also assess the environmental, social, economic and traffic safety impacts of a digital sign from the starting position that a sign presently exists on the site. Specialist reports that accompany applications for digital conversion should also be benchmarked against a starting position that there is an existing sign on the site.

The 2017 review of SEPP 64 provides the opportunity to consider a new statutory approval pathway for applications involving the digital conversion of existing advertising assets. Providing an alternate assessment pathway in preference to the lodgement of a new development application for digital conversion applications has the following advantages:

- It recognises that an existing consent exists for the signage asset;
- It firmly establishes an environmental assessment process that acknowledges the existing sign and its operation;

- It generates no expectation on the part of the community that the existing asset will be removed in the event that the Section 96 Modification Application is refused.

We are aware that Botany Bay Council on 20 October 2015 approved the digital conversion of a 166 square metre general advertising sign as a Section 96(1A) Modification Application under the EP&A Act 1979 (DA No.00/369/06). This was a fabric mesh sign that was converted to a digital screen. In assessing the application as a Section 96(1A) Modification Application the Council determined after receiving concurrence from the RMS that the digital conversion of the sign was substantially the same development for the following reasons:

- The existing sign was externally illuminated. The proposed digital screen constituted a form of internal illumination and luminance levels could be adjusted to ambient light conditions;
- The size of the sign was not being increased, it was reduced from over 400 square metres to 166 square metres;
- The location of the sign did not change;
- While modifications were necessary to the advertising support structure to accommodate the digital screen the bulk and scale of the structure did not change; and
- Both the existing and the digitally converted sign would only display static content.

We would encourage the Department to examine the decision by Botany Bay Council. In our professional opinion, Section 96 (2) EP&A Act 1979 provisions provide a sound alternate statutory pathway for digital conversion applications that meet certain criteria. These criteria include:

- Where there is no increase in the advertising display area of the approved sign.
- Where a reduction is proposed to the advertising display area of the approved sign.
- Where the existing sign is either externally or internally illuminated and the operation of the proposed digital screen complies with all relevant illumination guidelines and the application is accompanied by an independent lighting impact assessment to demonstrate this compliance.
- No changes are proposed to the location of the advertising structure.
- No substantive changes are proposed to the support structure apart from minor modifications to support the weight of the digital screen.
- Where no changes are proposed to the lighting curfew hours that apply under the existing consent.
- Proposed dwell times and transition times are in accordance with the relevant legislation and the application is accompanied by an independent traffic safety report that demonstrates that the digital operation complies with Section 3 of the Draft Guidelines.

Further, where there is an approved digital sign it is our professional opinion that the Section 96 (1A) EP&A Act 1979 provisions provide an appropriate statutory pathway to advance an application that proposes modifications to the dwell times of the sign or an extension to the duration of the consent.

It is our recommendation that the SEPP be amended to acknowledge the suitability of progressing signage applications for digital conversion using the EP&A Act 1979 Section 96 provisions.

2.3.2. Recognise Economic Justifications in the SEPP 64 Schedule 1 Assessment Criteria

We believe that it is important for the Schedule 1 Assessment Criteria to also recognise the economic justification for a signage proposal. Essential to the argument of economic justification is recognition that signage structures (whether they be building, business or general advertising signs) are long-term commercial assets with an economic value that is traded in capital markets.

At State Government level, agencies such as Sydney Trains and the NSW Roads and Maritime Services (RMS)

rely on the revenue that they receive from the management and development of their advertising assets to help fund the delivery of their essential services and transport safety initiatives. oOh!media currently hold contracts for the management and development of RMS roadside assets. Similarly, Local Councils across NSW also receive revenue and street furniture assets from the display of advertising assets.

The existing structure of SEPP 64 (whilst not expressly stated) recognises the economic contribution made by advertising and signage to State Government Agencies in two ways:

- It provides a separate development application pathway for RMS and Sydney Train applications whereby the NSW Minister for Planning is the Consent Authority in preference to local councils.
- It recognises and values the revenue stream that these assets provide to NSW Treasury in funding the delivery of important public services as a public benefit.

By contrast, the statutory assessment pathway that is followed for private applications does not actively recognise the economic importance of a commercial advertising asset that is held in private ownership. In this regard the applicant relies on the provisions that are incorporated into the EP&A Act 1979 for an assessment of economic impact or justification.

The objects that underpin the EP&AAct 1979 recognise and provide for the economic and orderly development of the land. The objects of the EP&A Act are prescribed under Section 5, and are reproduced below.

'The objects of this Act are:

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

(iii) the protection, provision and co-ordination of communication and utility services,

(iv) the provision of land for public purposes,

(v) the provision and co-ordination of community services and facilities, and

(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and

(vii) ecologically sustainable development, and

(viii) the provision and maintenance of affordable housing, and

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.'

Economic impact is also a relevant consideration under Section 79(c) of the EP&A Act 1979 that must be considered under Part 4 of the Act in the assessment of development applications. However, it is in our experience that when it comes to signage applications the focus of a Part 4 assessment remains amenity and traffic safety considerations and not economic justification.

To ensure a more balanced assessment of signage applications we recommend that economic criteria be included into the SEPP 64 Schedule 1 Assessment Criteria. In this regard, the economic justification for a sign

1. The contribution the signage makes to supporting the local economy of the state, city or local centre; or
2. The function of the sign as a commercial asset that provides a revenue stream to a building owner and the right of that owner to be able to receive a revenue stream throughout the life of the asset.

2.3.3. The Use Of Complying Development Certification For Static Illuminated Advertising Signs Up To 20 Square Metres In Area.

SEPP 64 recognises a different approval pathway for advertising signs that have an advertising display area that is under 20 square metres. In these circumstances, the SEPP does not require a consent authority to obtain the concurrence of the Roads and Maritime Services before granting development consent. Accordingly, we contend that the SEPP 64 Guidelines provide a clear set of development standards that could be used as the basis for a complying development certificate. We would recommend that the Department consider amending either State Environmental Planning Policy (Exempt And Complying Development Codes) 2008 or the SEPP 64 instrument to enable the development of new static signs up to 20 square metres in area to be approved as complying development.

Part 3

PROMOTING DESIGN EXCELLENCE

3.1. Introduction

As detailed in Part 2 of this submission, we would recommend that Clause 29 of SEPP 64 which deals with advertising design analysis be replaced with a provision that requires certain advertising signage applications to be accompanied by a design excellence statement that has been prepared by a qualified architect, urban designer, landscape architect or industrial designer. This approach would facilitate high quality urban design outcomes by integrating a design led approach into the SEPP 64 statutory planning framework.

As SEPP 64 currently stands, the requirement in Clause 29 for local Councils to liaise with the OOH Sector when they prepare a development control plan (DCP) for advertising and signage has not worked. In this regard the Outdoor Media Association, which represents the OOH Sector advise that since the introduction of Clause 29 it has not been called upon to participate in any Local Government run consultation relating to advertising design analysis. While the original intent of Clause 29 was to give rise to DCP's that recognised the specific requirements of the OOH Sector this has not occurred. It is imperative that the Department acknowledges this failing of the instrument. At the current time we have prominent NSW Council's such as the City of Sydney, North Sydney and Newcastle Council's advancing advertising and signage DCP's that incorporate development controls that are contrary to SEPP 64.

The real effect of this on the ground, is that signage companies have within their portfolios a considerable number of ageing advertising assets that are the subject of legally valid development consents that are frequently time unlimited in their consent duration. Many of these assets are roof signs and land mark signs that have advertising display areas over 45 square metres. These signage assets fall under the provisions of Clauses 15, 19 and 21 which do not enable applications to be advanced for new signage assets unless development control plans are in place that have been prepared using design advertising analysis. As we can find no Council that has applied the advertising design analysis methodology prescribed under Clause 29 of the SEPP there are no DCP's in place that effectively comply with the requirements of Clause 15, 19 or 21. As such, no development applications for these signage typologies can be advanced. Accordingly, existing signage assets that fall under these clauses cannot be rebuilt by the signage companies as the land owners who hold the consents for these signs will not risk losing their highly valuable signage asset and adopt a 'do nothing' approach.

Replacing the Clause 29 advertising design analysis provisions with a requirement for a design excellence statement will enable the signage companies to advance development applications for the upgrade or rebuilding of existing signs that fall under Clause 15, 19 and 21. It will also enable applications for their conversion to digital technology to be advanced, which in the case of roof signs, would have considerable occupational health and safety benefits as the advertising copy can be changed by a desk top computer.

If the Clause 29 provisions are not repealed then the quality of the built environment cannot be enhanced with the development of upgraded signage structures and many prominent buildings and commercial CBD centres will continue to display ageing signage typologies within their streetscapes. To demonstrate the high quality design outcomes that would be possible if a design excellence requirement replaced Clause 29, oOh!media engaged the architectural company Group GSA to design new roof top advertising signs for two of its prominent Sydney sites. The results, which are illustrated on the following pages, reinforce why it is imperative for the Department to overhaul Clause 29 and replace it with a design excellence requirement.

3.2. A Design Excellence Provision To Replace Clause 29

Set out below is our suggested wording for a Design Excellence clause to replace Clause 29 in SEPP 64. It has been drafted specifically to address the requirement in Clause 15, 19 and 21 for a development control plan to be in place that has been prepared on the basis of advertising design analysis.

29. Advertising Sign Design Excellence

1) A Council in assessing an advertising sign application for the purpose of Clause 15, 19 or 21 is to take into consideration whether the sign achieves design excellence.

2) In determining whether a sign achieves design excellence the Council is to consider a written statement prepared by a qualified architect, urban designer, landscape architect or industrial designer addressing each of the considerations set out in (3)

3) Design Excellence Assessment Criteria:

a) Does the sign enhance the character of the area, the streetscape and if applicable the architecture of the building on which the sign is located?

b) Does the sign positively contribute to and is it consistent with the range of uses in the area and the intensity of activity in the public domain?

c) Does the sign create interest in the public domain through architectural detailing, use of materials or the enhancement of views;

d) Does the design quality of the sign demonstrate creativity and innovation, through the use technology or artistic, cultural or human endeavour?

e) Is there a commitment and demonstrated capacity to provide high quality and well-designed content for a digital signs?

f) Does the sign meet objectives and general requirements for signage under Clause 3 and the assessment criteria under Schedule 1

g) Is there an impact on road safety?

h) Is there an impact on the amenity of surrounding land uses, scenic quality and users of the public domain?

3.3. Design Concepts Excellence To Replace Existing Ooh!media Roof Signs

oOh!media engaged Group GSA to develop a design concept for two of their prominent Sydney sites that are the subject of legally valid consents. The sites are:

- 647 George Street which is located in the China Town Precinct of the City of Sydney; and
- 423 Pacific Highway which is located in the heart of the Crows Nest village in the North Sydney Local Government Area.

The design brief required Group GSA to develop structures that could be viewed in the round, maintained the same or a slightly reduced advertising display area dimension, provided for the internal illumination of the sign through digital technology to replace the external flood lighting, incorporated an oOh!media logo, not increase the bulk of the structure and deliver a high quality design outcome that would contribute a positive visual impact to the streetscape.

3.4. Group GSA Design Excellence Concepts

423 PACIFIC HIGHWAY: EXISTING SITE



423 PACIFIC HIGHWAY: DESIGN EXCELLENCE CONCEPT



423 PACIFIC HIGHWAY: DESIGN EXCELLENCE CONCEPT



423 PACIFIC HIGHWAY: DESIGN EXCELLENCE CRITERIA

The concept design for 423 Pacific Highway comprises replacement of an existing faceted, static signboard with a new, curved digital billboard and feature screen elements adjacent. The proposed digital sign is of reduced width from existing, with vertical screen elements added to the sides to create visual interest, contribute to the architectural form of the building and improve overall visual contribution to the urban context.

DESIGN EXCELLENCE ASSESSMENT CRITERIA:

(a) Does the sign enhance the character of the area, the streetscape or in the case of non-urban land landscape, and if applicable the architecture of the building on which the sign is located?

The proposed design works reduces the overall width of the display area, replacing some of this space with architectural features that improve the visual appearance of the rooftop and contribute to the overall definition of the built form. The feature panelling to the outside of the digital display picks up the verticality of surrounding urban context and applies it to create a screen shielding roof structures behind.

The investment in such a prominent site demonstrates the value and character of the area and is well-suited to the ongoing development and revitalisation of the precinct planned in association with the new metro rail system.

(b) Does the sign positively contribute to and is it consistent with the range of uses in the area and the intensity of activity in the public domain?

The site is on a major corner, intersecting with Pacific Highway, Falcon Street and Shirley Road. The bulk of viewers to the digital sign will be from vehicles on these streets. The curved screen provides a uniform surface which minimises distractions and unnecessary elements. Pedestrian activity is concentrated primarily on Falcon Street and Willoughby Road, the areas which have views encompassing both the digital display and adjacent vertical structures. These elements provide a more interesting visual element that responds to pedestrian scale and use patterns.

(c) Does the sign create interest in the public domain through architectural detailing, use of materials or the enhancement of views?

The concept design reduces overall signage area and introduces a vertical panel system to the sides to provide an architectural screen which continues a high-quality treatment. Without this screening, views to the roof plant and structure would be exposed from neighbouring buildings and possibly also from the public domain, particularly from Willoughby Road and Willoughby Lane. The screen provides interest and demonstrates that care has been taken into consideration and improve the urban context of the site.

(d) Does the design quality of the sign demonstrate creativity and innovation, through the use technology or artistic, cultural or human endeavour?

The design concept uses the latest screen technology to provide a curved screen that significantly reduces the visual variation of the existing faceted, fixed signboard. The panels adjacent will be converted from static display to architectural elements, providing a greater contribution to the overall streetscape.

(e) Is there a commitment and demonstrated capacity to provide high quality and well-designed content for a digital sign?

oOh!media advise that the advertisements shown on the screen will follow the same guidelines as the current static sign. The location and visual exposure of the sign makes it highly sought after for major advertising campaigns associated with tourism, fashion, financial, telecommunication and car related entities.

oOh!media implements content controls which comply with the Australian Advertising Industry Code of Conduct, and the Outdoor Media Association's Code of Conduct. These include but are not limited to:

- > No tobacco products.
- > No overtly religious advertising.
- > No advertising that contains overt and sexually graphic images.

- > No pornography and illegal drugs.
- > No political advertisements.

With the conversion of the sign to digital technology there is also the opportunity for oOh!media to provide 5% of media time for the promotion of community related messaging for use by the Council. In addition should a "threat to life" crisis arise, oOh!media will offer the ability for the sign to display amber alert messages in association with law and safety enforcement agencies.

(f) Is there an impact on the amenity of surrounding land uses, scenic quality and users of the public domain?

The impacts on the surrounding public domain are improvements which simplify the architectural form and reduce the overall size of advertising space. This space is converted to architectural elements which provide screening to structure and plant and improve outlook from surrounding properties. In the same way, the public domain is enhanced through increased investment in this prominent site and the clarity of form which is provided in the design concept.

647-649 GEORGE STREET: EXISTING SITE



647-649 GEORGE STREET: DESIGN EXCELLENCE CONCEPT



647-649 GEORGE STREET: DESIGN EXCELLENCE CONCEPT



647–649 GEORGE STREET: DESIGN EXCELLENCE CRITERIA

The concept design for 647 – 649 George Street comprises replacement of an existing static signboard with a new digital billboard and frame structure. The screen is contained within a steel frame constructed of folded steel, angled to provide shielding from the sides and conceal the support structure within. The housing improves the visual appearance of the structure, particularly when viewed from surrounding properties and the public domain.

DESIGN EXCELLENCE ASSESSMENT CRITERIA:

(a) Does the sign enhance the character of the area, the streetscape or in the case of non-urban land landscape, and if applicable the architecture of the building on which the sign is located?

The concept design replaces the static sign with a digital screen of slightly reduced size and adds an element of architectural merit in the screen framing and structure. The frame structure is modern and visually separates the screen from the building on which it sits, creating a distinction between the heritage appearance of the building below and the signage element.

Haymarket is an area undergoing significant change, including patchwork redevelopment alongside significant infrastructure investment in light rail. Many older buildings will continue to coexist alongside modern developments, with clear distinction between the two. The new signage structure fits the new modern aesthetic while respecting heritage and creating a respectful contrast between the two.

(b) Does the sign positively contribute to and is it consistent with the range of uses in the area and the intensity of activity in the public domain?

The George Street precinct is undergoing dramatic change from a vehicle dominated street to a light rail and pedestrian boulevard. As a result, the dominant user in the area will be slower moving and more engaged in the public domain than was previously the case.

Whilst care has been taken to maintain view lines from the northern sections of George St (primarily the Liverpool St to Bathurst St precinct) to the sign, the frame design has an angled profile to provide some shielding from side viewing. This maintains key views while minimising visual intrusion from adjacent properties, many of whom look over the static signage structure that exists on site.

(c) Does the sign create interest in the public domain through architectural detailing, use of materials or the enhancement of views?

The structure enveloping the digital sign is a clean, simple structure which provides a strong architectural framework for display. The existing structure has a large blank side parallel to George St and exposed framing which will be removed in the new design. The concept design shows a cleaner form with reduced footprint and improves the views from neighbouring properties to the sides and rear of the sign.

(d) Does the design quality of the sign demonstrate creativity and innovation, through the use technology or artistic, cultural or human endeavour?

The concept design makes use of current technologies to provide a digital signboard which can be adjusted and controlled to suit time of day, weather conditions and changing site context.

The digital signboard conceals strip lighting to create a floating effect behind the screen. The frame captures this light to prevent visual impact on surrounding properties. The overall design uses available technologies to meet design excellence requirements whilst delivering an outcome that appears simple and clean.

(e) Is there a commitment and demonstrated capacity to provide high quality and well-designed content for a digital sign?

oOh!media advise that the advertisements shown on the screen will follow the same guidelines as the current static sign. The location and visual exposure of the sign makes it highly sought after for major advertising campaigns associated with tourism, fashion, financial, telecommunication and car related entities.

oOh!media implements content controls which comply with the Australian Advertising Industry Code of Conduct, and the Outdoor Media Association's Code of Conduct. These include but are not limited to:

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With the conversion of the sign to digital technology there is also the opportunity for oOh!media to provide 5% of media time for the promotion of community related messaging for use by the Council. In addition should a "threat to life" crisis arise, oOh!media will offer the ability for the sign to display amber alert messages in association with law and safety enforcement agencies.

(f) Is there an impact on the amenity of surrounding land uses, scenic quality and users of the public domain?

Overall, the digitisation of the existing sign provides an improvement in the scenic quality of the surrounding public domain. The existing structure will be tidied and consolidated into a simple, contained form, reducing the general visual footprint of the signage. Incomplete views from side and rear angles will be shielded to minimise impact on surrounding properties and further improve outcomes for the overall urban context.

Part 4

OHH! MEDIA SUBMISSION ON THE DRAFT SEPP 64 TRANSPORT CORRIDOR ADVERTISING AND SIGNAGE GUIDELINES 2015

4.1. Introduction

In this Part we have reproduced the submission that was made by oOh!Media to the NSW Department of Planning and Environment during the 2015 exhibition of the SEPP 64 Transport Corridor Advertising and Signage Guidelines 2015. We note that sixteen months have lapsed since the exhibition of the Guidelines. During that time the OOH Sector remains without a statutory set of Guidelines that can be used by Local Government Authorities to assess development applications for digital signs. We also advise that oOh!Media has not received any documentation from the Department to address the matters raised in the submission. It is evident from the review of the Draft SEPP 64 instrument that many of the considerations that were raised in the submission remain unaddressed. It is imperative that the Draft Guidelines are finalised so that they can be progressed at the same time as the SEPP 64 amendments are gazetted. Both the SEPP and Guidelines must be finalised together as these instruments form the statutory framework for the assessment of signage and advertising applications.

SUBMISSION

FEBRUARY 2016

SUBMISSION TO THE
NSW DEPARTMENT OF PLANNING & ENVIRONMENT

ON THE
**DRAFT SEPP 64 TRANSPORT CORRIDOR
ADVERTISING & SIGNAGE GUIDELINES 2015**

Prepared by
Urban Concepts

On Behalf Of
oOh! Media

(C) Urban Concepts 2014 ABN 96 074 171 065

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PREAMBLE

This submission on the SEPP 64 Transport Corridor Advertising and Signage Guidelines 2015 (hereafter referred to as the Draft Guidelines) has been prepared by Urban Concepts on behalf of oOh! Media. oOh! Media is Australia's largest out of home media company and is responsible for developing and managing a diverse portfolio of out of home advertising spaces in Australia and New Zealand which totals 18,600 physical signs and 26,400 active faces.

The term 'out of home' refers to advertising that is presented to audiences whilst they are away from the home environment. It incorporates the following range of advertisements and signage structures:

- **Large format roadside.** These structures include billboards (being 24 square metres in area), supersites (being up to 45 square metres in area) and spectacular or land mark signs (being above 50 square metres in area and often over 100 square metres). oOh! Media is responsible for over 1000 metropolitan roadside sites and over 3000 regional sites across Australia.
- **Sites located in retail precincts such as shopping centres.** oOh! Media is responsible for 10,000 static active faces and over 3000 digital active faces in retail precincts across Australia. oOh! Media has assets in over 500 shopping centres including signage outside approximately 800 supermarkets.
- **Sites at airport terminals and lounges.** oOh! Media is responsible for over 2000 active faces across 10 major metropolitan and regional airports in Australia, including all key domestic Qantas Club and Qantas Business lounges.
- **Sites in high dwell time environments** such as cafes, pubs universities and indoor sport centres. oOh! Media operates 6,200 active faces in high dwell time environments including 375 cafes, 78 university campuses, 350 pubs and bars and over 70 social sporting venues.

Throughout its out of home portfolio, oOh! Media has and will continue to make a substantial investment in digital technology. oOh! Media's digital platform comprises a network of over 1,700 digital signs, a tap or scan mobile interactive network of over 6,500 signs equipped with a Quick Response (QR code) and Near Field Communication (NFC) capabilities, and a propriety digital platform which provides the ability to schedule and publish digital content out to any digital screen or internet connected device in real time.

In making this submission we will draw from oOh! Media's 20 plus years of experience in developing road, retail, airport and commercial out of home signage assets across Australia and New Zealand, the partnerships that they have formed with retail operators, institutional investors, property fund managers and commercial portfolio owners and their research and development activity in pioneering the introduction of digital technology for out of home advertising.

The submission is structured in three Parts:

- Part 1 addresses the operating context of the out of home Industry focusing on the key trends and drivers of growth that are impacting on the sector.
- Part 2 discusses the proposed Digital Guidelines and presents recommendations for the Departments consideration arising from Urban Concepts experience with digital signage over the past 18 months in NSW. It focuses on general advertising signage being the core business of oOh! Media.
- Part 3 presents a range of Housekeeping recommendations.

PART 1

1. Out Of Home Media- An Industry Overview

1.1. Introduction

Ooh! Media wants to ensure that the review of the Draft SEPP 64 Transport Corridor and Signage Guidelines (Draft Guidelines) 2015 results in a statutory framework that facilitates the deployment of digital technology. For this to occur, it is important to firstly understand the operating context of the out of home industry, the financial contribution the industry makes to the Australian media industry and how the evolution of new digital technologies is driving the growth of the out of home sector.

The introduction of State Environmental Planning Policy No.64 in 2002 and its subsequent review and amendment in 2007 which resulted in the introduction of the Transport Corridor Advertising and Signage Guidelines 2007 provided the Out of Home Sector with a consistent development assessment framework to advance new signage applications.

With the passage of time technological changes have occurred within the Out of Home Sector that were not foreshadowed in 2007. At a time when the Australia Out of Home Industry is achieving significant and sustained growth it is important that the industry uses the 2015 review to fully examine the existing statutory planning framework that it operates within.

This part presents an overview of the out of home sector in Australia, how the sector's performance compares with its international counterparts and the key trends and drivers of growth that define the current and future operating context of the sector. It draws on information contained in the:

- oOh! Media Limited Prospectus Initial Public Offering of Ordinary Shares December 2014 which is available for download from the oOh! Media website www.oohmedia.com.au;
- The research of the acclaimed Australian social researcher Mark McCrindle;
- Research undertaken by oOh! Media into the public perceptions of large format digital advertising; and
- The research report by *Price Waterhouse Coopers on Sydney As A Global City June 2010*.

1.2. Relevant Out of Home Trends

The Australian media advertising industry comprises six primary sectors, being free to air television, subscription television, radio, newspapers, out of home, magazines and online media. In 2013 the industry generated a combined revenue of \$13.4 billion. Over the past decade 2009-2013, the industry has achieved a compound annual growth rate (CAGR) of 3.3%.

The out of home and online sectors have been the fastest growing sectors achieving a CAGR of 8.0% and 20.8% respectively over the decade 2009-2013.

The out of home sector in Australia is the fastest growing traditional media sector with expenditure increasing at an annual rate of 8.0% over the four years between 2009 and 2013. In 2013 the out of home sector reached a record level of \$544 million in revenue.

While out of home expenditure as a proportion of total advertising industry expenditure in Australia has steadily increased to 4.1%, this rate is significantly below the levels being achieved overseas. Figure 1.2 illustrates the percentage of advertising expenditure earned by the out of home sector across comparable overseas markets. It illustrates, that Australia is operating below all of its international counterparts.

FIGURE 1.2 - ADVERTISING EXPENDITURE



Source: ZenithOptimedia (2012)

1.3. Out of Home Industry Dynamics and Drivers of Growth

The growth in the out of home sector both within Australia and overseas is attributed to the underlying fact that advertising signs whether they be roadside large format signs, located on street furniture or at rail stations cannot be missed by passers-by. Put quite simply -they cannot be turned off, skipped or fast-forwarded by consumers.

Out of all traditional media, out of home advertising is consistently regarded by retailers and business as the most cost effective media for reaching advertising audiences relative to other forms of advertising, particularly television advertising.

The introduction of digital technology has the potential to drive the continued growth of the sector and presents new advertising opportunities. The key drivers for growth arising from digital technology are:

- The ability for increased consumer engagement and interactivity: Digital advertising networks provide opportunities for interactive touch screens and mobile device integration. This allows advertisers to customise their messages to a specific location, time of day or special event. Digital innovation using Wi-Fi, QR codes, mobile technology and the like heightens the consumer experience and promotes the vitality of retail centres and business districts
- Rapid content delivery allows contextual advertising opportunities that are real time and enable advertisers to provide sales or limited offers in response to real time market conditions.
- Increased content yield allows for multiple advertisers per minute which extends the penetration or reach of a traditional static billboard and allows for greater functionality via the incorporation of destination marketing campaigns, local economic business initiatives for start-ups and creative companies and community and civic messaging.

1.4. Generational Change and the Out of Home Industry

- Australian Social Researcher Mark McCrindle in his book 'The ABC of XYZ -Understanding The Global Generations' examines the marketing and retailing trends that apply to the Y and Z generations.
- Generation Y are defined as those born between 1980 and 1994 inclusive. Generation Z are those born between 1995 through to 2009. 2010 marks the start of the next 15-year generational span, Generation Alpha.

Understanding generational change and the expectation and behaviours of each generational span has

important implications for the way urban centres develop. Planning policy that looks to regulate the development of urban centres should have regard to generational theory to ensure policies and controls stay relevant and responsive to the behaviour of the 21st Generations.

Today, Generation Z accounts for 19% of the Australian population and will make up 12% of the workforce by 2020. They are an essential demographic and user group and as such their perspectives and attitudes should be taken into consideration in the drafting of new planning policy.

They are particularly important when it comes to planning policy that looks to regulate the introduction of technology into the built environment. McCrindle states that:

Generation Z are the most materially endowed, technologically saturated, globally connected, formally educated generation the world has ever seen...

They are internationally connected and engaged through global brands and global technologies...

Generation Z, having used technology from the youngest age, have seamlessly integrated technology into almost all areas of their lives, thereby being known as digital integrators.'

It is Generation Z that is driving the introduction of digital technology for out of home media. It is Generation Z that advertisers are looking to attract through digital media advertisements. Planning policy that responds to the behavioural pattern of this user group is fundamental to the continued growth of the out of home sector and its international competitiveness on the world stage.

This view is reinforced by the social research of McCrindle:

'Generation Y and Z are the first media consumers to emerge with interactive media as the predominate means by which they consume messages...

Generations Y and Z are the most marketed to of all generations, largely due to technological advances from the internet to social media to smart phone apps. Now there are many ways for business to communicate their messages. However, one down side to this is that in marketing to Gens Y and Z we have to constantly refresh messages and techniques in order to maintain their attention...

When comparing Generations Y and Z with previous generations, it is clear that how decisions are made and how consumers are engaged have changed. Today we are dealing with consumers who need to be engaged more on the emotive than the cognitive scale. They have been influenced not just by the scientific method but also by virtual reality. So for them it is a world of experience-not just evidence...'

Source: McCrindle Mark, The ABC of XYZ Understanding the Global Generations, Published by McCrindle Research Pty Ltd, 3rd Edition, 2014.

1.5. The importance of the Draft Guidelines to the Out of Home Industry

State Environmental Planning Policy No. 64 (SEPP 64) took effect on the 16 March 2001 and underwent a major review and amendment in 2007.

The introduction of SEPP 64 represented a significant planning milestone as it introduced a statutory framework that would apply to all lands in NSW where signage and advertising was a permissible land use with consent under an environmental planning instrument.

The major review of the SEPP in 2007 resulted in the introduction of the Transport Corridor Outdoor Advertising and Signage Guidelines. As stated in the introduction to the Guidelines, their purpose is to outline 'best practice for the planning and design of outdoor advertisements in transport corridors'. The Guidelines are significant because they were the first planning document that recognised the standards for outdoor advertising formats that are applied by the out of home industry.

The main formats being:

- Spectacular signs being displays over 50 square metres in area;
- Supersites being between 42 and 45 square metres in area; and
- Billboards being 24 square metres in area.

oOh! Media is a member of the Outdoor Media Association (OMA). The OMA over the past 12 to 18 months participated in the tri-partisan agreement that resulted in the Draft Guidelines. The incorporation of the tri-partisan guidelines into the Draft Guidelines 2015 is a critical first step to ensure that NSW Environmental Planning Instruments keep pace with the technology change that is occurring in the Out of Home Sector.

The recommendations made in Part 2 of this submission are not put forward as criticism but to further develop the body of thinking about how best to plan for and integrate digital media into the built environment. In this way the Draft Guidelines can become an integral part of the statutory planning framework and an educational resource that can assist practitioners and the community to understand the new era of digital media that lies ahead.

In making this submission, oOh! Media also support the comments and recommendations that are contained in the OMA submission on the Draft Guidelines. The comments and recommendations contained in the oOh! Media submission are complementary to the approach and outcomes sought by OMA through its industry submission.

PART 2

2. Relevant Statutory Considerations for Digital Signage Applications

2.1. Introduction

Between 2014 and 2015 Urban Concepts has overseen the advancement of 13 digital signage applications for building, business and general advertising signs. These applications include development applications for the digital conversion of existing signs, new Greenfield sites and Section 96 Modification Applications. The applications are detailed in Appendix A.

Our involvement in these applications has provided valuable insight into Local Government assessment procedures, the interpretation of the statutory controls that apply to signage under the NSW Environmental Planning and Assessment Act 1979 and the key difficulties private applicants (ie non-government applicants) are experiencing with the assessment of digital signage applications by Local Councils Authorities. It is this experience that we have drawn from in making this submission on behalf of oOh! Media.

Generally, the statutory planning process that is followed by a private applicant for an advertising and signage development application under the NSW Environmental Planning and Assessment Act 1979 (EP&AA 1979) is defined by:

- State Environmental Planning Policy No.64 Advertising and Signage (SEPP 64)
- The SEPP 64 Transport Corridor Advertising and Signage Guidelines 2007
- State Environmental Planning Policy Exempt and Complying Development 2008
- Local Environmental Plans (LEP)
- Development Control Plans (DCP) (only where a local council is a consent authority).

Signage is defined under SEPP 64 as:

'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.'

An advertisement is defined in the EP&AA 1979 as:

'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.'

Under SEPP 64 an advertisement 'means signage to which Part 3 applies and includes any advertising structure for the advertisement'.

This part presents oOh! Media's recommendations for how the Draft Guidelines could be further modified to facilitate the introduction of digital media and its deployment for large format general advertising signage.

2.2. Promote an understanding about the importance of technological change for signage

Since the introduction of SEPP 64 in 2002 there has been a heightened recognition of the Australian Outdoor Media Industry by State and Local Government Agencies. Notwithstanding, it is our experience that there remains within some areas of Local Government limited understanding about the importance that signage plays in contributing to the economy of our cities and the marketing and brand recognition of Australian businesses and retailers.

We would encourage the Department to include commentary in Section 1 of the Draft Guidelines about the economic importance and contribution that signage makes to the State's competitiveness within national and global markets.

We are concerned that there is an attitude in some areas of the Local Government that cities should be 'pristine environments' that are free of signage. The recent exhibition by the Council of the City of Sydney of its Draft Advertising and Signage Development Control Plan (Draft Sydney DCP) provides an insight into how Council's can exert influence to control what signage is visible in the built environment. The Draft Sydney DCP attracted criticism from organisations such as the Shopping Centre Council and the Outdoor Media Association because it failed to recognise and cater to the signage needs of Australian businesses, retailers and the Out of Home Industry. We understand that the Council is now working through its review of public submissions and we are encouraged that the revised DCP controls will provide greater recognition of the economic imperative for signage within the urban context of the Sydney Central Business District. oOh! Media is confident through continued consultation with the OMA that the final Sydney DCP will achieve a policy framework against which advertising and signage applications can be assessed.

As digital technology continues to grow in popularity, the number of digital signage development applications will also grow. Ooh! Media requests the Department to incorporate greater commentary into Section 1 of the Draft Guidelines to explain why digital technology is important and how the technology can support Australian business and the Out of Home Industry to remain competitive with their national and international counterparts.

To this end, we reiterate how important the original 2007 Guideline document was in educating Local Government about the existence of the Out of Home Sector. As such, the 2015 review provides another milestone to once again educate Local Government on the importance of planning for and managing technological change.

2.3. Recognise Economic Justifications in the assessment of Signage Applications.

The Draft Guidelines (refer page 11) require that a signage development application includes a statement of justification. Under the Guidelines, justification is dealt with on the basis of land use compatibility, visual amenity and public benefit:

'The SEE must provide a justification for erecting the advertisement in the proposed location. It must take into consideration the assessment criteria in Schedule 1 of the SEPP and any mitigation measures being employed by the proponent in minimising potential impacts. When the Minister is the Consent Authority the justification should also consider public benefits.' (Page 11)

We believe that it is important for the Draft Guidelines to also recognise the economic justification for a signage proposal. Essential to the argument of economic justification is recognition that signage structures (whether they be building, business or general advertising signs) are long-term commercial assets with an economic value that is traded in capital markets.

The objects that underpin the EP&AA Act 1979 recognise and provide for the economic and orderly development of the land. The objects of the EP&A Act are prescribed under Section 5, and are reproduced below.

'The objects of this Act are:

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

(iii) the protection, provision and co-ordination of communication and utility services,

(iv) the provision of land for public purposes,

(v) the provision and co-ordination of community services and facilities, and

(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and

(vii) ecologically sustainable development, and

(viii) the provision and maintenance of affordable housing, and

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment. '

Economic impact is also a relevant consideration under Section 79(c) of the EP&A Act 1979 that must be considered under Part 4 of the Act in the assessment of development applications. However, it is in our experience that when it comes to signage applications the focus of a Part 4 assessment remains amenity and traffic safety considerations and impacts and not economic justification.

We would ask that the Department encourage Local Consent Authorities to place greater emphasis on the economic justifications of a signage proposal as a relevant consideration. Our experience has been that economic considerations are not being given weight in the assessment process. It is also our experience that amenity and traffic safety considerations are the focus of assessment particularly for applications that deploy digital technology. To ensure a more balanced assessment of digital applications we recommend that page 11 of the Draft Guidelines be amended to require economic justification criteria for a sign to be incorporated into an Statement of Environmental Effects (SEE). In this regard, the economic justification for a sign could be recognised in terms of:

1. The contribution the signage makes to supporting the local economy of the state, city or local centre; or
2. The function of the sign as a commercial asset that provides a revenue stream to a building owner and the right of that owner to be able to receive a revenue stream throughout the life of the asset.

2.4. Recognise the existence of a static sign when assessing digital applications

Out of the 13 signage applications that Urban Concepts has lodged over the past 18 months, 11 were for the digital conversion of existing assets in preference to the advancement of new greenfield applications. Similarly, oOh! Media's roll out of digital signage will focus on the digital conversion of existing assets in its early stages in preference to the advancement of development applications for new greenfield sites.

In the majority of instances, the development consents that relate to existing assets pre date the introduction of SEPP 64 and the SEPP 64 Transport Corridor Advertising and Signage Guidelines 2007. In these situations;

- The duration of the development consents are usually time unlimited;
- The signage structures often exceed the 45 square metre advertising display area limitation prescribed under Clause 19 of the SEPP 64; and
- The signage structures are either externally or internally illuminated.

Accordingly, where existing consents include the above provisions, development applications for digital conversion are being advanced on the basis of existing use rights to ensure that SEPP 64 Clause 14 (duration of consent) and Clause 19 (sign area) provisions do not derogate from the rights imposed by the existing development consents.

In our experience, there is a tendency for development applications for the conversion of a static sign to one that employs digital technology to be assessed as if they were a new signage asset. We do not believe that this is a correct starting position to adopt as the existing sign will remain in place even if the application for the digital conversion of the sign is refused (particularly in situations where the existing consent duration is time unlimited).

The Statements of Environmental Effects (SEE) that accompany applications for the digital conversion of a sign should recognise the existing environmental, social, economic and traffic safety condition from the starting position that a sign exists on the site. Specialist reports that accompany applications for digital conversion should also be benchmarked against a starting position that there is an existing sign on the site.

While this may seem an obvious starting position for the Department, we would recommend that this distinction is made in the SEE information requirement detailed in Section 1.6 of the Draft Guidelines.

Reinforcing a starting position of their being an existing sign in place will assist local Council's in their assessment of a digital conversion application and provide clarity about how to deal with matters of non-compliance with Local Council Development Control Plan provisions.

2.5. Consider an alternate statutory pathway for the digital conversion of an existing sign

The review of the Draft Guidelines provides the opportunity to consider a new statutory approval pathway for applications involving the digital conversion of existing advertising assets. Providing an alternate assessment pathway in preference to the lodgement of a new development application for digital conversion applications has the following advantages:

- It recognise that an existing consent exists for the signage asset;
- It removes the need to advance a new application on the basis of existing use rights. Under the EP&A Act the onus is on an applicant to substantiate existing use rights and this can often involve extensive investigation and legal inquiry;
- It firmly establishes an environmental assessment process that acknowledges the existing sign and its operation; and
- It generates no expectation on the part of the community that the existing asset will be removed in the event that the Section 96 Modification Application is refused.

We are aware that Botany Bay Council on 20 October 2015 approved the digital conversion of a 166 square metre general advertising sign as a Section 96(1A) Modification Application under the EP&A Act 1979 (DA No.00/369/06). In assessing the application as a Section 96(1A) Modification Application the Council determined that the digital conversion of the sign was substantially the same development for the following reasons:

- The existing sign was externally illuminated. The proposed digital screen constituted a form of internal illumination and luminance levels could be adjusted to ambient light conditions;

- The size of the sign was not being increased, it was reduced from over 400 square metres to 166 square metres;
- The location of the sign did not change;
- While modifications were necessary to the advertising support structure to accommodate the digital screen the bulk and scale of the structure did not change; and
- Both the existing and the digitally converted sign would only display static content.

We would encourage the Department to examine the decision by Botany Bay Council. In our professional opinion, Section 96 (2) EP&A Act 1979 provisions provide a sound alternate statutory pathway for digital conversion applications that meet certain criteria. These criteria include:

- Where there is no increase in the advertising display area of the approved sign.
- Where a reduction is proposed to the advertising display area of the approved sign.
- Where the existing sign is either externally or internally illuminated and the operation of the proposed digital screen complies with the illumination provisions contained in the Draft Digital Guidelines.
- The application is accompanied by an independent lighting impact assessment to demonstrate this compliance.
- No changes are proposed to the location of the advertising structure.
- No substantive changes are proposed to the support structure apart from minor modifications to support the weight of the digital screen.
- Where lighting curfew hours of operation exist for the existing sign no changes are proposed
- Proposed dwell times and transition times are in accordance with the Draft Guidelines.
- The application is accompanied by an independent traffic safety report that supports the digital conversion on traffic safety grounds and confirms that its operation complies with Section 3 of the Draft Guidelines.

Further, where there is an approved digital sign it is our professional opinion that the Section 96 (1A) EP&A Act 1979 provisions provide an appropriate statutory pathway to advance an application that proposes modifications to the dwell times of the sign or an extension to the duration of the consent.

It is our recommendation that the Draft Guidelines be amended to acknowledge the suitability of progressing signage applications for digital conversion using the EP&A Act 1979 Section 96 provisions.

2.6. Encourage greater EP&A Act 1979 Section 36 and Section 74 consistency between Instruments. The relationship between SEPP 64, LEP's and DCP's

There are provisions in the EP&A Act 1979 to ensure that there is consistency across environmental planning instruments and adopted development control plans. These provisions are prescribed under Section 36 as they relate to environmental planning instruments and Section 74 with respect to the relationship between environmental planning instruments and development control plans. The relevant provisions relating to Section 36 and Section 74 are reproduced below.

36 Inconsistency between instruments

(1) In the event of an inconsistency between environmental planning instruments and unless otherwise provided:

(a) there is a general presumption that a State environmental planning policy prevails over a local environmental plan or other instrument made before or after that State environmental planning policy, and

(c) the general presumptions of the law as to when an Act prevails over another Act apply to when one kind of environmental planning instrument prevails over another environmental planning instrument of the same kind.

(4) Nothing in this section prevents an environmental planning instrument from being expressly amended by a later environmental planning instrument, of the same or a different kind, to provide for the way in which an inconsistency between them is to be resolved,

Purpose and status of development control plans

74BA Purpose and status of development control plans

(1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

(a) giving effect to the aims of any environmental planning instrument that applies to the development,

(b) facilitating development that is permissible under any such instrument,

(c) achieving the objectives of land zones under any such instrument.

The provisions of a development control plan made for that purpose are not statutory requirements.

74C Preparation of development control plans

(5) A provision of a development control plan (whenever made) has no effect to the extent that:

(a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or

(b) it is inconsistent or incompatible with a provision of any such instrument.

2.6.1. SEPP 64 Anomaly with Local Environmental Plans

SEPP 64 came into force on the 16 March 2001. Pursuant to Clause 6 of the SEPP, the state policy applies to all signage that under another environmental planning instrument can be displayed with or without development consent and which is visible from a public place or public reserve.

It is our understanding that the amendments that were made to SEPP 64 in 2007 and which led to the introduction of the SEPP 64 Transport Corridor Guidelines 2007 were directed at recognising the suitability of Transport Corridor Land for the display of signage. Transport Corridor Land is defined under Clause 4 of SEPP 64 to mean:

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.

Through the Standard Instrument Order 2006, the Standard Instrument Principal Local Environmental Plan and the Standard Instrument Amendment Order 2011 the Department of Planning and Environment has sought to improve the efficiency and consistency of Local Environmental Plans. However, in the drafting of the Standard

Instrument a concerning anomaly has developed between the intent of SEPP 64 and the land use zoning that the Department has encouraged Local Council's to adopt in their Local Environmental Plans as a result of the Standard Instrument provisions.

The *Standard Instrument* establishes the land use zones that a Local Council applies to the lands that define its local government area. Under the Standard Instrument Transport Corridors are to be zoned as either a SP 1 Special Activities Zone or SP2 Infrastructure Zone. The *Standard Instrument* does not recognise signage as a permissible use within these zones. While a Council can expand the range of uses that apply within to a given land use zone, this has not occurred. In practice only 3 of the 43 Sydney metropolitan Councils have adopted LEPs that permit signage in their SP1 and SP2 zones. These Councils are Holroyd, Kogarah and Lane Cove.

Pursuant Clause 6, SEPP 64 only applies to signage that can be displayed under another environmental planning instrument with or without consent. Accordingly, there is direct anomaly between the intent of SEPP 64, the *Standard Instrument* and the Local Environmental Plans that are in place across the majority of Sydney Metropolitan Council's.

This anomaly is having a direct impact on how digital technology is being introduced for signage purposes and is driving the conversion of existing advertising signs in preference to the development of new greenfield locations.

We ask that the Department correct this anomaly with the *Standard Instrument* as a matter of priority by identifying *signage, advertising and advertising structures* as permissible uses with consent in the land use tables that apply to the SP1 and SP2 zones.

2.6.2. Anomaly between SEPP 64 and DCP's

Pursuant to Section 74C(5) of the EP&A Act 1979, a Development Control Plan (DCP) has no effect to the extent that it is inconsistent or incompatible with an applicable planning instrument, such as an SEPP or an LEP.

Clause 3 of SEPP 64 establishes the aims and objectives that underpin SEPP 64. Clause 3 is reproduced below:

'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'

SEPP 64 recognises advertising and signage as a viable and legitimate land use. It does this by setting out criteria in Schedule 1 that is to be applied to the assessment of all signage classes (business, building and third party advertising signs) that require development consent. Further, through the provisions contained in Part 3 of the SEPP it introduces a more detailed set of development standards that are to be applied to the assessment of third party advertisements. The only areas where SEPP 64 seeks to prohibit third party signage are detailed in Clause 10 of the policy.

Pursuant to Section 74C(5) of the EP&AA 1979 a Development Control Plan (DCP) has no effect to the extent that it is inconsistent or incompatible with an applicable environmental planning instrument. Section 74BA, states that the purpose of a DCP is to facilitate development that is permissible under an applicable environmental planning instrument.

The statutory approval pathway that is presented in Figure 1 of the Draft Guidelines (reproduced as Figure 2.1) identifies that DCP's form part of the relevant considerations that Local Council must have regard to in their assessment of a signage application for a private application.

It is our experience that Local Council's in their drafting of DCP's are implementing policy documents that do not always reflect the intent of SEPP 64 and the Draft Guidelines. As DCP's are Council adopted policies there is no check or balance that the Department can apply to the content of a DCP.

To illustrate this point we have set out below three key changes that the Council of the City of Sydney is looking to introduce through its Draft Sydney DCP and the extent of the inconsistency with the Draft Guidelines.

MANDATORY DISPLAY AREA REDUCTIONS

The Transport Corridor Outdoor Advertising and Signage Guidelines 2007 recognise Australian and Overseas large format industry standards. These standards are based on four types of signage dimensions – Spectaculars being over 50 sqm in area, Supersites being 45 square metres in area, Billboard (24 Sheet Poster) being 24 square metres in area and Super 8's being 18 square metres in area. The draft Sydney DCP required that the display area of any sign that is to be converted to digital technology automatically be reduced by a minimum of 30% and have a display area of no greater than 45 square metres. If this provision was to become adopted Council policy, it would create an entirely different categorisation of signs that has no correlation to the Australian and Overseas large format out of home industry standards.

The Schedule 1 criteria in the SEPP 64 allow a Council to assess the merits of an application for digital conversion against sound and appropriate criteria. The proposed Draft Digital Guidelines incorporate traffic safety and illumination standards to assess the merits of a digital conversion. There is no sound or rational justification for the Council of the City of Sydney requiring a blanket 30% reduction in area and a maximum advertising display area of 45 square metres for digital signs

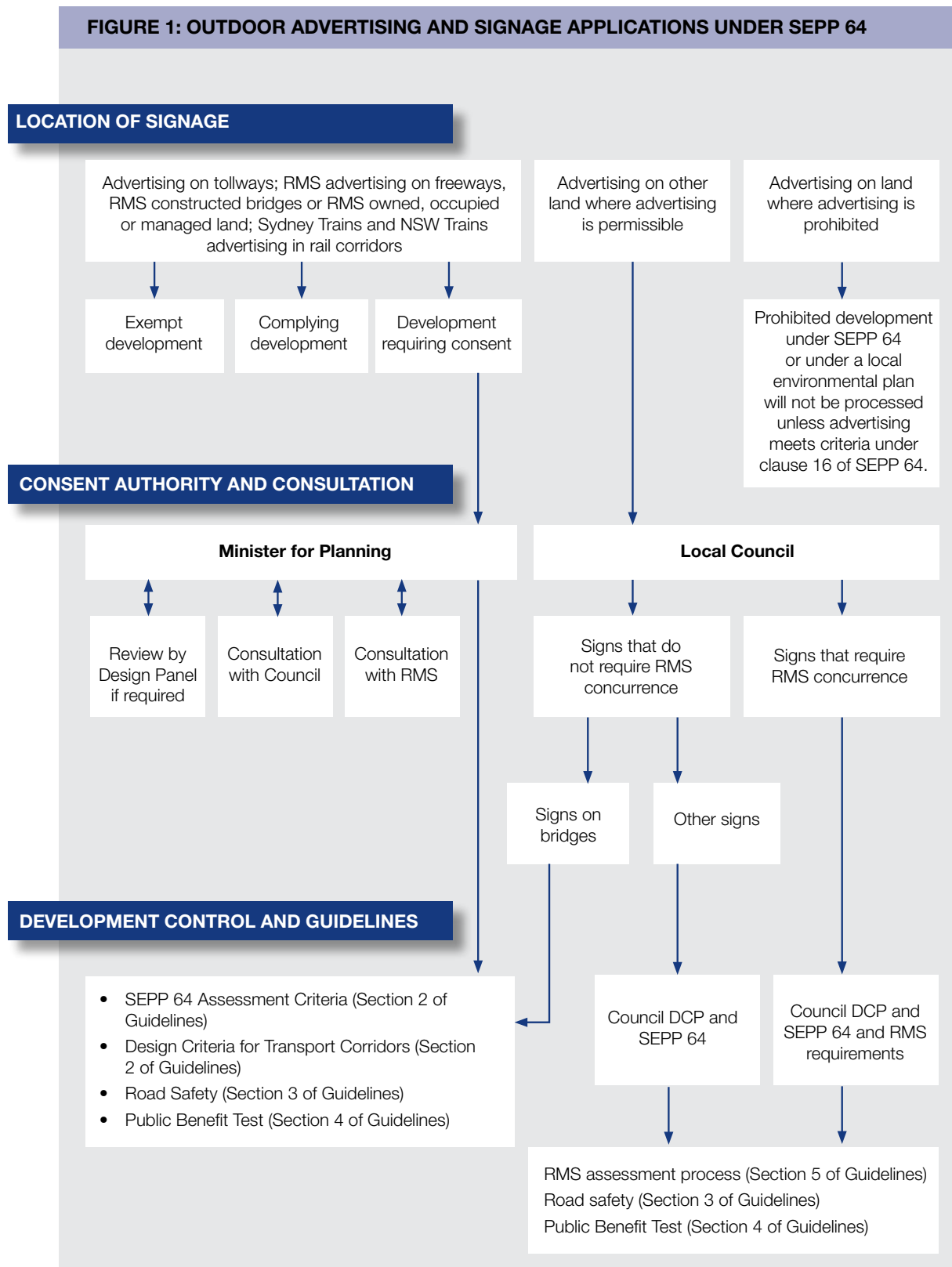
DWELL DURATION TIMES

The Draft Sydney DCP sought to introduce dwell times vastly from the Draft Digital Guidelines currently being applied by the Department. The Draft Guidelines adopt a dwell time for changes between advertisements of 10 seconds in speed zones under 80km/h and 25 seconds for speed zones 80 km/h or greater. The draft Sydney DCP's proposed a blanket dwell time of 45 seconds without any logical justification or reasoning.

ILLUMINATION REQUIREMENTS

Table 2.1 below compares the Draft Digital Guideline Illumination requirements against the Draft Sydney DCP requirements. It has been compiled by Electrolight on behalf of oOh! Media. In almost all instances the Draft DCP requirements are more onerous. A detailed review of the proposed DCP Table is provided in Table 2.1.

FIGURE 2.1 - STATUTORY FRAMEWORK FOR THE OUTDOOR ADVERTISING AND SIGNAGE APPLICATIONS UNDER SEPP 64



Source: NSW Draft Guidelines 2015

FIGURE 2.2 - ELECTROLIGHT COMPARISON OF DRAFT LED GUIDELINES AND DRAFT DCP ILLUMINATION PROVISIONS

		BUSINESS B1-B8 OR INDUSTRIAL IN1-IN2 NOT WITHIN 100M OF ACCOMODATION USE	BUSINESS B1-B8 OR INDUSTRIAL IN1-IN2 AND WITHIN 100M OF ACCOMODATION USE ₆	RESIDENTIAL R1-R2 OR PUBLIC RECREATION ZONE	DRAFT TRANSPORT CORRIDOR GUIDELINES
DAYLIGHT HOURS	Max Luminance	6000 cd/m ²	6000 cd/m ²	6000 cd/m ²	Maximum Output ₁
INCLEMENT WEATHER	Max Luminance	600 cd/m ² ₂	600 cd/m ² ₂	600 cd/m ² ₂	Zone 1 – No limit Zone 2,3 - 700 cd/m ² Zone 4 – 500 cd/m ²
TWILIGHT HOURS	Max Illuminance	6 lux above existing ₃	6 lux above existing ₃	6 lux above existing ₃	No limit imposed
	Max Luminance	600 cd/m ²	600 cd/m ²	600 cd/m ²	Zone 1 – No limit Zone 2,3 - 700 cd/m ² Zone 4 – 500 cd/m ²
	Max Threshold Increment	20% based on 10 cd/m ² adaptation luminance ₃	20% based on 10 cd/m ² adaptation luminance ₃	20% based on 0.5 cd/m ² adaptation luminance ₃	No limit imposed
NIGHT TIME HOURS	Max Illuminance	3 lux above existing ₄	2 lux above existing or not greater than existing structure lighting (whichever is less) ₄	1 lux above existing or not greater than existing structure lighting (whichever is less) ₄	No limit imposed by Transport Corridor Guidelines. AS4282 has limits of 25 lux for pre curfew (before 11pm) and 4 lux curfew (after 11pm)
	Max Luminance	300 cd/m ² ₅	200 cd/m ² ₅	100 cd/m ² ₅	Zone 1 – No limit Zone 2,3 – 350 cd/m ²
	Max Threshold Increment	20% based on 10 cd/m ² adaptation luminance	20% based on 10 cd/m ² adaptation luminance	20% based on 0.5 cd/m ² adaptation luminance ₃	No limit imposed by Transport Corridor Guidelines. AS4282 has 20% Max based on 10 cd/m ² adaptation luminance for commercial/residential areas and 20% Max based on 1cd/m ² adaptation luminance for Residential Areas with light surrounds
	Hours of Operation	NIL	At discretion of consent authority	Not permitted between 10pm and 7am	No limit imposed

Source: Electrolight

Table 2.1 Notes:

1 - To maintain constant visibility of the signage, the luminance of the sign may need to increase to the maximum level at certain times of the day. This is to compensate for high levels of sunlight striking the front the face of the sign, which would otherwise dull the image and make it difficult to view. Images that are difficult to view may increase driver distraction as they attempt to correctly interpret the images on the screen.

2- DCP limits are generally lower than the Transport Corridor Guidelines for Zones 1,2,3.

3- It is assumed that the limits shown are the AS4282 "illuminance in vertical plane" values (Ev). AS4282 deals with night time obtrusive light only, it does not deal with effects involving daylight (including twilight) except for a brief mention of daytime appearance of lighting structures, which it then excludes from the scope of the document in Part 1.1.

When assessing signage under AS4282, there are two key factors which may affect the design –

- 1. Effects on Residences - Where light enters rooms of dwellings that are "normally dark" (ie at night not during the day/twilight). Illuminance limits for spill lighting should not be applied at twilight.*
- 2. Effects on Transport Systems and Users - Disability glare caused by bright lights impairing vision – particularly in dark environments. This is measured by Threshold Increment which is based on several different adaption luminances- 10 cd/m2 in commercial/residential areas, 1 cd/m2 in Residential light surrounds and 0.1 for Residential Dark surrounds. These adaption luminances are based on the estimated roadway luminance provided by the street lighting at night. This is why the adaptation luminances are different for each category, as residential areas will typically have lower street lighting levels than major arterial roads in the city centre. It is not appropriate to calculate the Threshold increment for twilight as the adaptation luminances of the environment may be significantly higher than those described in the table – particularly if the street lighting has turned on at the commencement of dusk. Higher adaptation luminances (than the ones outlined in the DCP table) mean that the true Threshold increment will be significantly lower than what is calculated and the signs will therefore be at a lower luminance value than is required. During twilight it also not appropriate to have lower adaption luminances for residential areas when the amount of ambient light from sky glow will be the same as in the central business areas. To simplify the assessment process Threshold increment should only be applied for night time lighting applications as was originally intended in AS4282. Furthermore, the adaption luminances for calculation of the Threshold increment during night time operation should be as per the Table 2.1 of AS4282.*
- 3. DCP limits for spill lighting are significantly lower than those outlined in AS4282. Furthermore, AS4282 has two illuminance limits, one for pre-curfew before 11pm (25 lux) and one for curfewed operation after 11pm (4 lux). The DCP does not acknowledge that higher lighting levels are permissible earlier in the evening when they prove less obtrusive to residents.*
- 4. DCP limits for Luminance are significantly lower than those outlined in the Transport Corridor Guidelines. A luminance level of 100 cd/m2 for the Residential Zone will be too dim to allow the sign to operate effectively.*
- 5. When the sign is within 100m of an accommodation use, it should be clarified that the sign must be viewable from the residence (via windows or the like). AS4282 references vertical illumination in windows for curfewed lighting operation.*

While the Draft Sydney DCP has not yet been adopted by the Council the review of the above draft provisions serves to illustrate how a Council adopted policy could vastly impact on the ability of a private applicant to achieve a fair and balanced assessment of a development application for a digital sign, notwithstanding the provisions contained in SEPP 64 and the associated Guidelines.

With respect to the Sydney Draft DCP, oOh! Media and the OMA are confident that on going consultation with the Council will deliver a balanced policy framework against which advertising and signage applications can be assessed.

It is recommended that the Department include in the Draft Guidelines an explanation to Council's about how they are to incorporate and apply SEPP 64 and the Draft Guidelines into DCP policy controls.

2.7. Signage on Heritage items and in Heritage Conservation Areas

Clause 10 of SEPP 64 prohibits the display of third party advertisements on land that under an environmental planning instrument is identified as a heritage item or heritage conservation area.

The advent of electronic and digital technology is resulting in the development of many new and innovative forms of digital signage such as mesh and translucent screens. These new products provide for the preservation of the building fabric whilst facilitating high quality signage outcomes.

It is recommended that the Department modify the Clause 10 provisions and adopt a flexible and merit based planning approach that allows for the consideration of new and innovative forms of signage to be where they can be supported by an independent heritage impact assessment.

2.8. Public Benefit Test Provisions

Under SEPP 64, outdoor advertising proposals (subject to Clause 17,18 and 24) located along transport corridors must meet a public benefit test. A public benefit test is an assessment of how the local community will benefit as a result of the display of the advertisements and must be applied if:

- The display of the advertisement is by or on behalf of the RMS or Sydney Trains
- The advertisement is to be displayed along a Tollway
- The advertisement is to be displayed on a bridge
- The advertisement requires RMS concurrence under SEPP 64

SEPP 64 and the associated Transport Corridor Outdoor Advertising and Signage Guidelines 2007 allow the level of public benefit for a given SEPP 64 advertisement to be negotiated and agreed upon between the Consent Authority and the applicant. The public benefit can be provided as a monetary contribution or as an in kind contribution. It is recommended that the Department through the Draft Guidelines provide greater guidance as to what constitutes an appropriate public benefit for a signage proposal.

For signs employing digital technology we believe the following contributions are appropriate public benefits and should be recognised in the Digital Guidelines.

- Providing a Consent Authority regular access to free advertising time to promote a service, event or important community information initiative should be formally recognised in the Guidelines as a contribution that satisfies the public benefit test provisions.
- Enabling the sign to be integrated into a digital emergency network for amber alert messaging. Amber alerts can be used by emergency authorities to communicate important information such as terrorist threats, missing persons or extreme weather warnings.

PART 3

3. Recommended Housekeeping Changes to the Guidelines

3.1. Broaden the range of terms and definitions and recognise the language of 'Digital Signage'

We recommend that the following modifications be made to the definitions contained in Section 6 of the Draft Guidelines:

- The following definitions contained in Clause 4 of SEPP 64 should be incorporated for consistency:
 - Advertising display area
 - Building wrap advertisement
 - Special promotional sign
 - Freestanding advertisement
 - Roof or sky advertisement
 - Wall advertisement
- We would recommend that definitions be added for the third party advertising formats identified in Section 1.1 the Draft Guidelines. These formats are:
 - Spectacular
 - Supersite
 - Landmark
 - Super8
 - Super6
 - Billboard
 - Small format
 - Portrait
- We would recommend that definitions be added for:
 - Digital sign
 - Mode
 - Dwell time
 - Transition time
 - Light emitting diode (LED)

- Projection sign
- Scrolling sign
- Animated sign
- Video sign
- Static electronic display
- In respect to illuminated signage we would recommend that definitions be added to explain the terms :
 - Flashing light
 - Flickering light
- We would recommend that the term Public Benefit be defined.
- We would recommend that a definition of AS 42 82 Control of the Obtrusive Effects of Outdoor Lighting be added.
- We recommend that definitions be added for:
 - Pixel pitch
 - Horizontal and vertical viewing arc /angle

These two terms form part of the language that is used when describing the operation of a digital screen. We would encourage the Department to incorporate commentary into the Guidelines to address these two terms for the following reasons:

- **Pixel Pitch.** There is a direct viewing relationship between the pixel pitch of a digital screen and the distance that the screen is viewed from. Generally, a close viewing distance requires a smaller pixel pitch to ensure that the display provides for a high definition image. Generally, digital screens that are viewed within a 5-10 metre viewing distance should have a 10-13 mm pixel pitch while digital signs that are to be viewed above ground level can operate with a 16mm plus pixel pitch. Digital signs that are to be used for roof top signs such as building identification signs can have a 30 mm pixel pitch.
- **Horizontal and vertical viewing arcs.** The horizontal and vertical viewing arc of an digital screen can be set which enables the visual impact of a digital sign to be contained. Viewing arcs are usually set at around 160 degrees. Outside of the viewing arc the screen content is not visible. The viewing arcs allow for a greater level of control to be achieved over a signs visual and lighting impact.

3.2. Clarify Visual Impact Assessment Criteria

We recommend that the Draft Guidelines provide a structure around visual impact assessment. We would recommend that the Guidelines encourage applicant's and Consent Authorities to undertake visual impact assessment by applying the planning principles contained in *Rose Bay Marina v Woollahra Council* and *Anor (2013) NSWLEC 1046*, these are the relevant principles which concern view impacts on the public domain.

Often Council's look to apply the planning principles in *Tenacity Consulting Pty Ltd v Warringah (2004) NSW LEC 140*. *Tenacity* is about visual impacts on the private domain and specifically about view loss, which is largely irrelevant to the assessment of signage.

3.3. Minor Modification to Lighting Impact Assessment Criteria

We agree that lighting levels should comply with AS4282 but Table 3 on page 24 states that AS4282 "recommends the following levels" in reference to the Table. This is not accurate - AS4282 does not recommend luminance

levels and as such the last part of the sentence should be removed. It should also be noted that whilst AS4282 specifically excludes signs in its scope, the Draft Guidelines require that the standard be adhered to regardless.

We also recommend that Table 3 in Section 3 be amended to delete the repeated 'Night Time' row.

3.4. Extend Duration of Consents

Clause 1.4.1 of the Draft Guidelines indicate that SEPP 64 limits the duration of a consent for an advertising sign to 15 years. The introduction of digital technology for signage requires a significant capital investment. For example, the cost of a 42 square metre 10mm pixel pitch digital supersite screen (without support structure) is approximately four times the cost of a traditional internally illuminated supersite light box.

We would ask that the Department consider introducing a mandatory consent period for digital signs employing digital technology of 20 years.

3.5. Clarify the 150 metre digital spacing requirements

Section 2.5.8 of the Draft Guidelines incorporates at point (l) sign space criteria:

"(l) Sign spacing should limit drivers view to a single sign at any given time with a distance of no less than 150 metres between signs in any one corridor. Exemptions for low speed, high pedestrian zones or CBD Zones will be assessed by the RMS as part of their concurrence role."

We contend that the 150 metre spacing requirement is too onerous and fails to recognise the existing signage environment. We recommend that the control be amended to apply to greenfield signage sites and not existing signage locations. A preferred approach would see applications for the digital conversion of existing sites being assessed on their merits rather than by strict numerical compliance with the 150 metre spacing requirement.

3.6. Incorporate the RMS Road Safety Assessment Matrix

In Section 5 of the Draft Guidelines there is reference to the RMS Road Safety Assessment Matrix. The Matrix is not a publicly available document and as such applicants and Consent Authorities are unable to understand its implications for traffic safety assessment. It is recommended that the Matrix be incorporated into the document.⁶⁴ Incorporating the Matrix is critical to ensuring the integrity of the Draft Guidelines and RMS concurrence procedures.

Appendix A

Digital Signage Applications prepared by Urban Concepts 2014-2015

Digital Signage Applications prepared by Urban Concepts 2014-2015

DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Sydney Trains Homebush Overpass SEE – lodged with NSW Dept. Planning	Digital Conversion of existing General Advertising Sign	2015	3.2m x 15.58m = 40.25m ²	Applied: 25 seconds Approved: 45 seconds	Approved
Sydney Trains Lilyfield City West Link SEE – lodged with NSW Dept. Planning	Digital Conversion of existing General Advertising Sign	2014	12.44m x 3.29m = 40.93m ²	Applied: 10 seconds Approved: 10 seconds	Approved



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Sydney Trains Pacific Highway Pymble SEE – lodged with NSW Dept. Planning	Digital Conversion of existing General Advertising Sign	2014	12.48m x 3.2m = 39.93m ²	Applied: 10 seconds Approved: 10 seconds	Approved
Sydney Trains Silverwater Auburn SEE – lodged with NSW Dept. Planning	Digital Conversion of existing General Advertising Sign	2015	19.04m x 4.7m – 89.5m ²	Applied: 25 seconds	Withdrawn – RMS raised objections



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Sydney Trains The Rocks George Street Overpass SEE – lodged with NSW Dept. Planning	Digital Conversion of existing General Advertising Sign	2015	8.72m x 2.74m = 23.89m ²	Applied: 10 seconds	Under Determination
Chatswood Toyota SEE – lodged with Willoughby Council	New Digital Business Identification Sign	2014	2.925m x 3.36m = 10.7m ²	Applied: 10 seconds Approved: 60 seconds	Approved



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
O’Riordan Street Mascot SEE – lodged with Botany Council	Digital Conversion of existing Building Identification Sign	2014	17.6m x 3.2m = 56.3m ²	Applied: 6 minutes Approved: 6 minutes	Approved
Sharp SEE – lodged with North Sydney Council	Digital Conversions of existing Building Identification Signs	2015	18.29m x 2.93m = 53.58m ²	Applied: 28 days	Refused



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Oxford Hotel Taylor Square SEE – lodged with Sydney City Council	Digital Conversion of existing General Advertising Sign	2014	14.85m x 4.6m = 68.31m ²	Applied: 10 seconds	oOh! Media on appeal.
Tower Holdings Northpoint SEE – lodged with North Sydney Council	Digital Conversion of Building Identification Signs	2014	East - 27m x 8m = 216m ² North - 36m x 8m = 288m ² South - 48m x 8m = 384m ² West - 27m x 8m = 126m ²	Applied: 15 minutes Approved: 12 month	Only the North and South Signs approved under the NSIPP at smaller dimensions.



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Bayer Building Section 96 (1A) – Change of dwell time – lodged with North Sydney Council	Change of dwell time of existing Digital General Advertising Sign from 5mins to 10sec	2015	18.3m x 1.9m = 34.77m ²	Applied: 10 seconds 96AB Review Approved: 60 seconds	Refused then approved with a Section 96AB Review.
373 Pennant Hills Road SEE – lodged with Hornsby Council	New Digital General Advertising Sign	2015	8.3m x 2.2m = 18.26m ²	Applied: 10 seconds	Approved



DIGITAL SIGNAGE PROJECT	PROJECT TYPE	YEAR	DIMENSIONS	DWELL TIME (APPLIED FOR AND APPROVED)	OUTCOME
Cremorne Hotel S96 (2) – lodged with North Sydney Council	Digital Conversion of existing General Advertising Sign	2016	4.0m x 8.1m = 32.4m ²	Applied: 10 seconds	Under Determination
Homebush Bay Drive SEE – lodged with Sydney Olympic Park Authority	Digital Conversion of existing General Advertising Sign	2015	18m x 4.5m = 81m ²	Applied: 25 seconds	Under Determination

