



ABN 59 004 233 489

4 September 2009

Mr Dale Dickson  
Chief Executive Officer  
Gold Coast City Council  
PO Box 5042  
Gold Coast MC 9729

Dear Mr Dickson

### **Review of Planning Scheme – advertising devices regulation**

This submission to the Council, prepared by OMA in consultation with our Queensland members, seeks public and transparent consideration of the issue of advertising regulation in the context of Council reforms currently underway.

The OMA considers that, under the current rules, regulation of outdoor advertising is restrictive in a manner prohibited by State Government reform guidelines. We would be most grateful for your consideration of the issues, which are explained in further detail below.

### **Transparent review sought**

Gold Coast City Council is currently reviewing the Planning Scheme, or Town Plan, with extensive public consultation expected to occur over a number of years.

The OMA understands that the Council is also, separately, reviewing Local Laws and Subordinate Local Laws; however, this process appears to be internal. For example, in December 2008 the Council, after a “review” resolved to “make” a new set of Local Laws and repeal previous laws (quotation marks taken verbatim from the Council website). The OMA is not aware of any call for submissions in relation to this review.

The OMA would submit that the intention of the integrated planning reforms promoted by the Queensland Government is for all regulatory rules – Planning Schemes, Local Laws, and Subordinate Local Laws – to be reviewed holistically to achieve integration and redundancies (as per the DLGPSR Plan Making Implementation Note 10 on Advertising Devices, version 1.1, para 3.1). To maintain public confidence in the reform process it would seem incongruous to have local and subordinate laws being reviewed

separately and without public consultation, particularly as they are interrelated with each other and with the Planning Scheme.

In any case, the OMA would be grateful for its submission to be considered at the earliest opportunity by whichever review is the most appropriate.

### **The restriction at issue**

The primary concern of the OMA is the content restriction that occurs in Subordinate Local Law No. 16.8 (Advertisement) 2008. Clause 8(o)(ii) requires third party advertisements to promote a major tourist attraction. This is a content restriction because it prohibits advertisements from having content that relates to third parties except where that party is a major tourist attraction.

Plan Making Implementation Note 10 states that inappropriate regulation includes “regulation of content, which is not development and cannot be regulated under a planning scheme” (para 2.0). The Note recommends that local governments review the need to regulate advertising devices altogether, but where they consider local laws to be necessary, the latter are to cover licensing components such as licensing requirements and conditions, and not content (para 3.2).

We therefore submit that the sub-clause should be removed as a content restriction that is inconsistent with the advice in the Implementation Note.

### **Additional restriction**

Clause 8(o)(i) of the same Subordinate Local Law requires third party advertisements “to be exhibited only where the majority of the other advertisements exhibited on the same premises are for purposes that directly benefit the local community”.

Just as there should be no restriction of content for a particular proposed advertisement, so too should there be no restriction of content for other advertisements in the area. If ‘purposes that directly benefit the community’ means that advertisements should relate only to local businesses or issues, then this would be a breach of the ban on content restrictions.

### **Other aspects of the Clause**

Clause 8(o)(iii) requires the advertisement to be a “significant symbol” and to enhance the image and identity of the area in which it is situated. This appears to relate to amenity, regulation of which is permissible under the Implementation Note (para 3.1). The OMA would support moves to maintain or improve amenity, and in this regard notes the deleterious effect of any proliferation of unregulated (often on-premises) signage in contrast to the image of quality and professionalism that our industry strives to foster.

Sub-clauses (iv), (v), and (vi) deal with size, location and number of advertisements, regulation of which is also permissible under the Implementation Note (para 3.1). The OMA has no objection to these.

## **Conclusion**

The OMA is the industry association for outdoor media companies which advertise on public transport, billboards, and street furniture. The industry contributes to the economy through employment, community awareness and government advertising, and support including to local small and medium business.

The content restriction that is in place in current regulation is of serious import to our Queensland members; it severely limits their ability to operate in the Gold Coast area. We believe that the restriction is in contravention of State regulatory reform guidelines and results in detriment to both the industry and the local community.

We are grateful for the opportunity to be heard on the above issues, and look forward to your advice on the progress of the reforms. Please do not hesitate to call to discuss this matter further on tel (02) 8356 9000.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Helen Willoughby'.

Helen Willoughby

**Chief Executive Officer**

copy to Coordinator General and Director General of DLGPSR