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Member for Brindabella

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Minister for Planning and Land Management  
Minister for Urban Renewal



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Ms Caroline Le Couteur MLA  
Chair  
Standing Committee on Planning and Urban Renewal  
Environment and Territory and Municipal Services  
ACT Legislative Assembly  
London Circuit  
CANBERRA ACT 2601

		A.C.T. LEGISLATIVE ASSEMBLY	
		COMMITTEE OFFICE	
SUBMISSION NUMBER	166		
DATE AUTH'D FOR PUBLICATION	26/7/17		

Dear Ms Le Couteur *Caroline*

## Government Submission to the Standing Committee on Planning and Urban Renewal Inquiry into Billboards

The ACT Government is pleased to provide the following submission to the Standing Committee on Planning and Urban Renewal (the Standing Committee) Inquiry into Billboards. The Government welcomes the opportunity to provide information to assist the Standing Committee in preparing its report and welcomes the results of the Inquiry.

The Government's submission to the Standing Committee Inquiry into Billboards is presented against each of the terms of reference.

The key points of the Government's submission are summarised below:

- outdoor and out-of-home advertising signage such as billboards is distinct from other forms of advertising as it is intended to occupy public spaces and capture public attention;
- billboards are not currently a permitted form of signage in the ACT;
- the responsibility for signage policies and development approvals rests with the ACT Government or the National Capital Authority (NCA) under the operation of the Territory Plan and the National Capital Plan, respectively;
- signage policies in the ACT have not been updated for some time;
- there is the opportunity to undertake reforms to current regulatory settings for outdoor advertising to improve the look of the city and benefit the ACT community more broadly; and
- the Government supports a review of the current policy on billboards and more broadly consideration of matters related to signage and advertising in the public realm.

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The Government looks forward to the results of the Inquiry into Billboards, and that the Standing Committee consider in its report to the Assembly in October 2017 the following points:

- recognises that a considered review of the broader signage and advertising in the public realm is required;
- puts forward constructive suggestions for improvements to regulatory settings to be considered as part of that review;
- notes the need to engage and consult the community effectively on any changes; and
- notes the Government's commitment to regulatory reform taking into consideration Canberra's role as the national capital.

The ACT Government consulted the National Capital Authority (NCA) in the preparation of the Government submission. The NCA advised they will lodge their own submission to the Inquiry into Billboards.

Relevant officers from the Environment, Planning and Sustainable Development Directorate are pleased to be invited to appear to give evidence to the Standing Committee at its hearing on 9 August 2017 from 3.30pm to 5.00pm. Please contact my office on 6205 0218 if you require further information.

Yours sincerely



Mick Gentleman MLA  
Minister for Planning and Land Management

13/7/17

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## **ACT Government Submission**

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ACT LEGISLATIVE ASSEMBLY

**STANDING COMMITTEE ON  
PLANNING AND URBAN RENEWAL**

INQUIRY INTO BILLBOARDS

**14 JULY 2017**

## Introduction

The ACT Government is pleased to provide the following submission to the Standing Committee on Planning and Urban Renewal (the Committee) Inquiry into Billboards. The Government welcomes the opportunity to provide information to assist the Committee in preparing its report and welcomes the results of the Inquiry.

The Government's submission to the Committee Inquiry into Billboards is presented against each of the terms of reference.

## Summary of key points

The key points of the Government's submission are summarised below:

- Signage policies in the ACT have not been updated for some time and therefore include advertising forms which are no longer in common use or do not recognise new forms of technology, such as digital signage;
- There is the opportunity to undertake reforms to current regulatory settings for outdoor advertising to improve the look of the city and benefit the ACT community more broadly;
- The responsibility for signage policies and development approvals rests with the ACT Government or the National Capital Authority (NCA) under the operation of the Territory Plan and the National Capital Plan, respectively;
- Outdoor and out-of-home advertising signage such as billboards is distinct from other forms of advertising as it is intended to occupy public spaces and capture public attention;
- Billboards are not currently a permitted form of signage in the ACT; The Government supports a review of the current policy on billboards and more broadly consideration of matters related to signage and advertising in the public realm;
- Many cities recognise that display opportunities are an effective way of showcasing an event, festival, attraction or business;
- Prohibition rarely proves to be effective; and
- Any amendment to the regulatory environment should prioritise 'quality' over 'quantity' by replacement of 'old signage' with new high quality, legible signage.

- 1. Current rules and practices concerning billboard advertising, including:**
  - a. the rationale for existing regulations in the ACT;**
  - b. the terms of the existing regulations in the ACT;**
  - c. the effectiveness of the existing regulations and enforcement measures in the ACT;**
  - d. a comparative analysis of billboard regulation in other jurisdictions; and**
  - e. the definition of 'billboard' when compared with definitions for other signage.**

### **Basis for regulations in the ACT**

Governments at the state, territory and local level regulate advertising signage and position in terms of public safety (including road safety), planning laws and visual impact. Private and third-party outdoor advertising must comply with regulations regarding placement.

Regulation of outdoor advertising is necessary to address the influence this may have on the amenity of public spaces and broader city design, environmental and heritage considerations, and the potential risks to public safety that may arise.

Advertising content is also regulated by governments from a consumer fair trading perspective, while content more generally is subject to industry self-regulation.

Outdoor advertising can affect public amenity due to its visual impact arising from the prevalence, size, form, colour or content. It can act as a form of visual pollution, reducing people's enjoyment of a vista and use of an area. It can affect surrounding property values. In heritage areas, there can be conflict with the preservation of built form and ambience. In residential and mixed-use areas, it can impact on views from homes. Illuminated or laminated signs can produce excess light. Items like billboards and signs can impact the solar access of an area.

In areas like roadsides, the placement of signs and billboards can act as a distraction to passing traffic. Studies have identified links between driver attention, roads with advertising and dynamic advertising. Signs and advertising can also create other hazards<sup>1</sup> if inappropriately secured or placed in trafficked areas.

Outdoor advertising could promote goods, services, events, emergency warnings or behaviours by individuals, businesses, community groups, charitable organisations or government. Types can include static or dynamic displays, billboards, signs (in situ or moveable), hoardings, flags, banners, sandwich boards and election advertising (corflutes).

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<sup>1</sup> For example, trip hazards, visual impacts, blocking sight lines and wind hazards.

This definition is drawn from the 2011 Commonwealth House of Representatives Standing Committee on Social Policy and Legal Affairs inquiry into the regulation of billboard and outdoor advertising entitled 'Reclaiming Public Space':

- The Standing Committee on Social Policy and Legal Affairs considered that outdoor advertising constitutes a specific category of advertising because of the way it occupies public spaces, dominates civic landscape, and targets captive, unrestricted audiences.
- The Committee resolved to include within its inquiry consideration of all types of advertising that can be viewed from public spaces (i.e. the public does not have a choice about what they see). While these spaces may be privately owned, their access is generally unrestricted to the public.

### Overview of the current regulatory environment in the ACT

In the ACT, regulation of outdoor advertising signage is considered in terms of public safety, planning requirements and visual impact within the urban planning, land use and development functions of government.

The responsibility for signage policies and development approvals rests with the ACT Government or the NCA under the operation of the Territory Plan and the National Capital Plan, respectively. The Territory Plan must not be inconsistent with the National Capital Plan.

Signage policies were introduced when the Territory Plan came into effect in 1993 and last reviewed in 1998 (Draft Variation Number 91). Signage policies were transferred with no technical changes into the current Territory Plan as the Signs General Code in 2008.

Development applications for signs within Designated Areas ([Attachment 1](#)), including Main Avenues and Approach Routes, are determined by the NCA. Development applications for signs on all other land in the ACT are determined by the ACT Government's Environment, Planning and Sustainable Development Directorate (EPSDD).

The operation of the National Capital Plan and the Territory Plan are supported by legislative provisions in the *Public Unleased Lands Act 2013* (the PULA) and the *Planning and Development Act 2007* (the PADA), as follows:

- Under the PULA, approval must be sought to place signs (advertisements, public notices) on public unleased land. A code of practice is also operated for movable signs. Offence provisions apply.
- Under the PADA, development applications for signs are required except where exempt. Broadly, exempt signage is defined to include those for public works under the PADA or required under the *Building Act 2004*, those subject to general exemption criteria or operating under the Signs General Code.

As a result of these regulatory settings, responsibility for signs in the ACT is undertaken by Transport Canberra and City Services (TCCS) under the PULA, and EPSDD and Access Canberra under the PADA.

There is a question of whether a stand-alone signs code—such as the Signs General Code of the Territory Plan—continues to be the most suitable planning mechanism to regulate outdoor advertising. An alternative approach may be to consider a precinct-based approach to the approval of signs.

Unlike many other cities, Canberra has been planned to be mostly devoid of large outdoor advertising signage such as billboards. This can be traced back to a 1937 ordinance prohibiting unauthorised signs on Commonwealth property. The original intent of these controls for outdoor advertising signage was that it was not considered appropriate in the Parliamentary Triangle and significant national areas. Billboards are not currently allowed anywhere in the ACT.

National Capital Authority's National Capital Plan

Development applications for signs within Designated Areas and areas subject to 'Special Requirements' under the National Capital Plan (e.g. Main Avenues and Approach routes) at [Attachment 1](#) and [Attachment 2](#) are determined by the NCA under the National Capital Plan, which includes a Signs General Code (under schedule 4.20) that applies to proposals for signage.

Most Development Control Plans (DCPs) for Main Avenues and Approach Routes (prepared by the NCA) constrain or prohibit outdoor signage. For example, the DCP for the Hume West Industrial Estate prohibits signs in the road reserve or any rooftop sign visible from the Monaro Highway.

Notable amongst the requirements of NCA is a prohibition on the use of billboards on unleased land in the Designated Areas (clause 4.20.3).

Other forms of advertising may be permitted subject to conditions determined against various categories, such as:

- location – residential, commercial and industrial buildings and sites and unleased land;
- type – freestanding, flags and banners and street furniture; and
- nature of information provided – business (real estate, hawkers, services and directional), and community and tourism (events, services, radio, directional and destination).

The related conditions involved affect the nature, wording and type of advertising material in certain areas, the placement, size, illumination and animation of any advertising.

ACT Government's Territory Plan

Development applications for signs on all other land in the ACT (apart from areas controlled by the NCA) are determined by EPSDD under the Territory Plan. However, some signs can be exempt from requiring development approval under schedule 1 of the *Planning and Development Regulation 2008*.

Advertising signage must be consistent with Territory Plan's Statement of Strategic Directions – and carefully controlled to maintain environmental amenity (clause 2.17) – and with the Signs General Code (2008) of the Territory Plan.

The Signs General Code applies to the design, content and positioning of signs in the code track and merit track for development applications. The code may also be used in the assessment of impact track developments.

Signs are a permissible type of development in all zones of the Territory Plan.

The Signs General Code (at Elements 1-4) sets out detailed requirements for signs in relation to the following:

The types of signs permissible in different zones, to:

- ensure that signs are a type appropriate for the zone and contain appropriate content for the location;
- ensure that advertisements and signs do not compromise the role of the Territory as the setting of the National Capital and Seat of Government of the Commonwealth
- ensure that signs and advertisements complement the attractiveness, safety, legibility and amenity of the natural, modified and built environments both by day and night;
- ensure that signs and advertisements are not incompatible with the existing or future desired character of the locality;
- support the role of signs and advertising as an important factor in identifying the commercial character and vitality in locations such as ground floor level retail, mixed services and industrial areas;
- establish provisions for signage in a specified area which create and coordinate a particular design theme; and
- ensure appropriate agreement is established for proposals that are on or encroach into Territory land.

The built form of permitted signs, to:

- ensure signs are designed and positioned to enhance and enliven the natural and built environment, in addition to informing, directing and advising, and assist in the legibility of the area;
- restrict the number of advertising signs per site to minimise and avoid visual clutter and to prevent one sign obscuring another;
- ensure signs do not unnecessarily repeat or duplicate similar signs; and

- ensure the original architectural character, set by the lines of awnings, windows, doors parapet lines, etc. remains dominant.

The construction of permitted signs, to:

- allow signs to complement the streetscape and amenity of the locality; and
- ensure that signs affixed to a building complement the architectural style of the building.

The environmental impact of permitted signs, to:

- provide for sustainable development that does not have adverse impacts on the surrounding environment;
- ensure that signage proposals in areas subject to special requirements of the National Capital Plan are not inconsistent with the National Capital Plan; and
- ensure that signage on places on the Heritage Register appropriately recognises the heritage value of the site.

The Signs General Code (in Table 1) sets out the 28 types of signs allowed within each zone of the Territory Plan. 'Billboards' are not specifically mentioned in this list. Signs types that are allowed are: Awning/Fascia, Blind, Business Plate, Canopy, Changeable Message, Construction Site Fence, Display Home/Development Site Sales, Event, Fence, Flag Pole, Ground, Hamper, High Rise Building, Inflatable, Information, Lantern, Mobile, Pole, Projecting, Pylon/Column, Roof, Stallboard, Territory, Under Awning, Vertical Banner Building, Vertical Banner Freestanding, Wall and Window.

The Signs General Code also sets out the allowable signage content and location of principal, second and third party signage that are allowed (in Table 2).

Third-party signage (i.e. advertisements displaying the name, logo and/or symbol of a company or other organisation that does not own or substantially occupy the land) is currently only permitted by the ACT Government on the ground floor of commercial and industrial zones and limited to 2m<sup>2</sup> or 20 per cent of the area of the sign, whichever is the lesser.

Advertising signage on private vehicles (trucks, cars, utes and motorbikes) and public transport (trams, buses and taxis) – both parked and being driven around the city – is not regulated by EPSDD through the Territory Plan or by the NCA through the National Capital Plan.

Content of signage

#### Fair trading

Advertising content is regulated by the Commonwealth Government with respect to false and misleading representations and misleading and deceptive conduct under the *Competition and Consumer Act 2010* (Cth) (the CCA). The CCA contains the Australian Consumer Law.

### Industry self-regulation

A further system of self-regulation of content was established by the Australian Association of National Advertisers (AANA) in 1998. Self-regulation of the advertising industry involves a set of rules and principles of best practice to which the industry voluntarily agrees to be bound.

These rules are expressed in a number of codes and industry initiatives. The rules are based on the belief that advertisements should be legal, decent, honest and truthful, prepared with a sense of social responsibility to the consumer and society as a whole and with due respect to the rules of fair competition.

As part of self-regulation under the AANA, the Advertising Standards Bureau (the Bureau) manages the complaint resolution process of the advertising self-regulation system. The Bureau functions as secretariat for the Advertising Standards Board and the Advertising Claims Board—the two independent bodies established to determine consumer and competitive complaints against the advertising self-regulatory codes. The work of the Bureau is not underpinned by any Government legislation.

### Government

#### *Variable message signs*

Variable message signs are operated by the Government at the following five locations in the ACT for traffic management purposes: Gungahlin Drive (Mitchell), Tuggeranong Parkway (Warramanga), William Hovell Drive (near Bindubi Street), Yarra Glen (near Carruthers Street) and Hindmarsh Drive (Symonston).

Content is restricted under a specially determined policy to include only information prioritised as follows:

- Unplanned events affecting traffic management (e.g. a significant car crash, bushfire, flooding);
- Planned events affecting traffic management (e.g. scheduled road closures and congestion due to an events and road construction and maintenance);
- Road safety (e.g. messaging on current ACT Policing operations); and
- Community messages not directly affecting a journey (e.g. emergency services messages such as a total fire ban or advertisements for charity organisations).

#### *Campaign advertising*

The Government Advertising (Campaign Advertising) Guidelines provide the basic principles that should be observed by all ACT Government directorates, agencies and Territory-owned corporations in the planning, development and delivery of Government advertising and promotion, as stipulated by the *Government Agencies (Campaign Advertising) Act 2009*.

#### *Election advertising*

Electoral advertising signs are movable signs containing any printed electoral material. Such signage is subject to the Public Unleased Land (Movable Signs) Code

of Practice 2013. Electoral advertising signs may be displayed for up to six weeks immediately preceding the election date. These signs are only covered by the Movable Signs Code of Practice for 48 hours after the official election day and must be removed within 48 hours of the close of the polling booths.

The Elections ACT Report on the ACT Legislative Assembly Election 2016 included a recommendation on election signage (corflutes). In the report, the proliferation of corflutes was cited as subject to a relatively widespread degree of dissatisfaction.<sup>2</sup>

Elections ACT recommended that, subject to consultation with TCCS, the Movable Signs Code be amended to provide that electoral signs displayed on public land may not be placed on suburban streets and may only be placed on specified stretches of major arterial roads, outside designated areas that have the special characteristics of the national capital. Singapore has been publicly cited as an example of restricted election signage.

#### *Traffic signs*

While not included in the definition of outdoor advertising, traffic signs and road markings are regulated under the Australian Road Rules and the *Road Transport (Safety and Traffic Management) Act 1999*.

#### Heritage requirements

The ACT Heritage Council identifies that the provisions of the *Heritage Act 2004* are relevant. All forms of signage, including billboards, may be subject to heritage requirements and approvals when proposed within a heritage place or object, or within an Aboriginal place or object.

Examples of the relevance of the *Heritage Act 2004* include:

- Proposals to install billboards on heritage buildings, as ACT Heritage Register entries, Heritage Guidelines or Conservation Management Plans (CMPs) may specifically prohibit or regulate all forms of signage. The Sydney and Melbourne buildings are one example where a CMP approved under Section 61K of the *Heritage Act 2004* regulates the location, number, size, form and appearance of signage.

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<sup>2</sup> Though the formal number of complaints had decreased from the previous election; social media and letters to the editor of the Canberra times were the basis for the Elections ACT comments.

- Proposals to install billboards along arterial roads or in rural settings, as Aboriginal places and objects are known to occur in such locations within the ACT.

*Heritage Act 2004* provisions would require that any proposal for billboards within a heritage place or object, or within an Aboriginal place or object, be subject to a heritage assessment and approval process.

#### Effectiveness of existing regulations and enforcement measures

##### Inconsistent regulatory outcomes

The Government is aware of a number of inconsistent regulatory outcomes across the city. These include:

- businesses with awnings (on the edge of their lease) can put up signs on their lease, however other businesses with similar signs cannot do this if it is not part of their leased land;
- a business was not permitted to put up a sign up, so instead painted a fence to advertise the business (not regulated); and
- signage at Majura Park and the Canberra Airport differs from other areas of Canberra.

##### Enforcement and non-compliance issues

There is a separation of compliance activity depending on whether or not the advertising is taking place on unleased public land, which does not support a single gateway to business regulation.

Compliance activity under the PADA is undertaken on a complaints basis and is subject to a risk-based approach which generally perceives signage as a low-risk activity.

Accordingly, there may be examples where compliance of signage is open to question but has not been tested as no complaint has been raised.

##### Mobile advertising on vehicles

There are limits on current regulations in relation to mobile outdoor advertising on private vehicles (trucks, cars, utes and motorbikes) and public transport (trams, buses and taxis) both parked and being driven around the city.

Advertising signage on vehicles is not regulated by EPSDD through the Territory Plan or by the NCA through the National Capital Plan.

Anecdotal advice suggests the use of this type of advertising has been driven by restrictions on other forms of media around Canberra.

With parked vehicles there is some discretion in terms of the regulatory approach i.e. regulation as a sign or as a vehicle. TCCS and Access Canberra have now agreed to treat it as a parking matter.

Any consideration around the regulation of such advertising needs to be considered in the context of the advertising undertaken on public transport in the ACT.

### Regulation in other jurisdictions

There is a continuum of approaches to outdoor advertising across cities in Australia and internationally. From initial desktop research, the best outcomes reflect a balancing of community and business interests.

Cities will generally outline a planning policy for outdoor advertising materials, consistent with the basis for regulation above. However, some go further to recognise that display opportunities are an effective way of showcasing an event, festival, attraction or business.

Other cities, nationally and internationally, have permitted outdoor advertising more extensively than Canberra. In doing so, some cities suggest concerns with a dependence on the associated revenue as well as the issue of when advertising dominates cityscape.

Several cities have started to reclaim public space with a ban on advertising. Most cities have been reducing the number (Paris, by a third), with a few enacting a ban (for example Grenoble, France. Chennai, India banned the erection of billboards and several US states including Vermont, Maine, Hawaii and Alaska are billboard-free.<sup>3</sup>

Sao Paulo is an interesting case in point. It banned billboards and, in a single year, the city removed between 15,000 and 300,000 oversized storefront signs. Five years later, it began to gradually reintroduce advertising in a controlled manner.<sup>4</sup>

Other cities have sought to modernise regulations, with US cities reducing the number of billboards but allowing digital. For example, in 2015, the Philadelphia City Council passed a bill allowing existing static billboards to be converted to digital in certain parts of the city, as long as the owner removed two other static billboards.<sup>5</sup>

Citizens, artists and the community can be an important component in determining the outcome. In some cities this has been promoted. For example, in 2015, 1,500 advertising billboards in Tehran were replaced with art for 10 days. In New York, No Ad<sup>6</sup>, which is an augmented-reality app, strips the New York City subway of ads and replaces them with street art.

In contrast, outdoor advertising can also support community and associated organisations through the promotion of issues, activities and events. The range is broad. For example, in 2015, the London is Changing project brought the voices of those affected by the housing crisis to the city's billboards.<sup>7</sup> In Canada billboards

<sup>3</sup><https://www.theguardian.com/cities/2015/aug/11/can-cities-kick-ads-ban-urban-billboards>;

<http://www.connexionfrance.com/paris-outdoor-advertising-billboards-banned-size-limits-new-rules-12816-view-article.html>

<sup>4</sup><https://www.newdream.org/resources/sao-paolo-ad-ban>

<sup>5</sup><http://philadelphia.cbslocal.com/2015/04/16/city-council-approves-new-rules-for-billboards-in-city-of-philadelphia/>

<sup>6</sup><http://www.cultofmac.com/298127/ad-turns-new-york-subway-street-art-wonderland/>

<sup>7</sup><https://www.theguardian.com/cities/2015/feb/23/forced-out-london-billboards-share-stories-housing-crisis>

were used by a community curling organisation to increase participation, with billboards being much more effective than other strategies.<sup>8</sup>

### Definition of billboard and other signage

There is no definition of 'billboard' in the Territory Plan. However, billboard can generally be defined as a large outdoor advertising structure mostly found in high-traffic, high visibility public areas of cities such as along main roads and at commercial centres.

Relevant signage definitions in the Territory Plan are:

- **Sign** means any device or representation openly visible to the general public for the purposes of direction or control of information, or displaying advertisement.
- **Advertisement** means any device or representation visible to the general public which is for the purpose of directly or indirectly promoting sales or drawing attention to an enterprise or undertaking, and includes any hoarding or similar *structure* and bunting flag or streamer, or any balloon used or adapted for use for the display of *advertisements* or attracting attention.
- **Principal Signage** is the predominant signage that relates to:
  - i. building name;
  - ii. name of occupier/business, address and telephone number;
  - iii. nature of business carried out on the premises;
  - iv. advertising of products made or services provided on the premises;
  - v. business insignia, trademarks, emblems, logos, etc of the occupier;
  - vi. directional information;
  - vii. public notice information;
  - viii. particulars of any activities held or to be held at the place or premises.
- **Second Party Signage** are advertisements for products not initiated on the site, but are associated with the business in its day-to-day business activity, for example signs advertising particular brands of products sold or distributed.
- **Third Party Signage** are advertisements:
  - i. displaying the name, logo and/or symbol of a company or other organisation that does not own or substantially occupy the land;
  - ii. for a product, activity or event not sold or occurring on the land; or
  - iii. displaying sponsorship details.
- **Backlighting** means, in relation to a *sign*, the internal illumination of a *sign* box and the internal illumination of individual letters or characters comprising a *sign*, provided that the *sign* box, letter or character is constructed of translucent and not transparent materials.

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<sup>8</sup> <http://www.curling.ca/blog/2016/03/01/billboards-help-paris-curling-club-boost-its-learn-to-curl-program/>

A description of each of the 28 sign types permissible in the ACT is provided, with text and images, in the Signs General Code of the Territory Plan (Element 5: Appendix A).

## **2. Community views on placement and construction of billboards;**

Any public discussion of outdoor advertising signage, including billboards, is likely to raise community interest and debate. Some members of the community may oppose any relaxing of the signage controls.

The views of the community on what constitutes acceptable outdoor advertising could be tested as part of a review, and individually with any project initiatives, to promote the alignment of community perceptions and industry approach.

The Government is committed to maintaining and supporting Canberra's role as the national capital in undertaking any review or related reforms on outdoor advertising.

**3. Merits and challenges of establishing designated areas for billboard advertising, including:**

- a. impact on business and community organisations;**
- b. use of new billboard technology; and**
- c. potential to enliven urban areas.**

**Business and community organisations**

Approaches have been made recently by the Outdoor Media Association (OMA) for the ACT Government and the NCA to consider changes to the outdoor signage policy. The OMA is the peak national industry body representing most of Australia's outside and out-of-home media display companies and production facilities, as well as some media display asset owners.

Nationally, the outdoor advertising industry has revenues of over \$670 million per annum.<sup>9</sup>

Currently, the economic potential in the Canberra market would be constrained by regulatory restrictions and outdated or unnecessary requirements. Further work would be required to determine the extent and potential of the ACT market with any proposed actions.

Increased advertising has the potential to generate economic activity in the Territory from the advertising itself (investment in infrastructure and related income stream), and the promotion of the advertised good or service. Other jurisdictions derive revenue from outdoor advertising.

**Innovation and new technology**

The Signs General Codes of the Territory Plan and National Capital Plan have not been updated for nearly 20 years. They include advertising forms that are no longer in common use and do not recognise advertising and signage that use new forms of technology, such as digital signage.

Jurisdictions across Australia have been investigating and adopting the use of digital billboards and advertising over recent years. In 2013, Austroads prepared a report on the safety of roadside advertising, including recommendations on a preferred model which allows for digital advertising.

Digital advertising has a range of pros and cons over traditional static advertising:

- Pros – content is more adjustable (supporting advertiser access); there is the potential for multiple applications including use for emergency services and event coordination; and it is effective in attracting audience attention.

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<sup>9</sup> Extract from OMA website, <https://www.oma.org.au>

- Cons – energy use (though could be supplemented through renewable energy sources); greater upfront cost; distraction (though potentially addressed through safety requirements); and privacy (some smart advertising can use mobile data).

#### Smart city approach to enliven urban areas

Technological innovation and the development of a smart city approach could be an appropriate catalyst on which to revisit current regulatory settings for outdoor advertising.

The Statement of Ambition (2016) states that:

*“We must embrace the digital mindset and deliver integrated smart city initiatives. Everything Canberra does should ensure that our communities and businesses have access to the digital infrastructure and skills they need to successfully participate and compete in the knowledge and innovation economy. There is economic potential that can be realised by effectively using the increasing volumes and diversity of data to make better decisions at the city scale.... we will demonstrate to the nation the benefits of a well managed and data driven city.”*

Advertisers are increasingly exploring digital and interactive advertising as an effective means of conveying information. This is no longer considered revolutionary; this is becoming the norm for advertising worldwide.

Smart advertising allows for the potential for mixed use advertising boards, for example: government owned infrastructure which can be leased to an advertiser (local or otherwise) for a certain amount of time per day/week, while providing community information (such as traffic information or events) the remainder of the time. It could also be used for community messaging in emergencies or supporting access to events and activities.

Smart advertising has the potential to blend seamlessly into a smart city such as Canberra if done in the right way. Sustainability, both in terms of technology and environmental impact, would also be an important consideration.

The introduction of light rail, greater urban infill and mixed-use development at commercial centres and along major transport corridors, and growth at Canberra Airport may increase the Canberra community’s interaction with outdoor advertising and affect preferences.

- Greater urban density and mixed-used developments will cause an increase in advertising of commercial premises next to residences.
- Transport systems nationally and internationally engage with advertising as a supporting revenue source.

## Events contribute to our vibrant and thriving community

Generally, the Government is supportive of giving consideration to digital billboards as a means to provide more flexibility for event organisers and businesses to advertise.

Events are valued as they contribute to our vibrant and thriving community and support the government priorities for suburban renewal and business innovation. Events also play an important part of the cultural life within the ACT community including a diverse arts and cultural scene driving a range of new and exciting events to our city. However, to truly enable events to be a key driver to enlivening our city, there needs to be opportunities for event organisers to advertise events more broadly in the Territory, driving patronage and further business investment.

There are quite restrictive policies around advertising events in the public domain. The Territory Plan's Signs General Code restricts the use of event signage and mandates a number of restrictive requirements including character and design; positioning, size and location; colours and allowable period of time signs can be in place.

Additionally, the Public Unleased Land (Movable Signs) Code of Practice 2013 further restricts the use of signage for advertising purposes for community events and more so for those events that are considered commercial in nature. Similarly, the type, colour, structure and location are all restrictive factors preventing advertising of events.

a small number of digital billboards, particularly those that light up and show different messages, would support economic development in the ACT.

A number of other jurisdictions approve the use of billboards for advertising purposes for event organisers as an opportunity to increase the awareness of the event. For example, Geelong City Council allows the use of mobile billboards hired directly from the council for promotional purposes. The City of Bunbury Council allows the use of billboard hire for events and community organisations. This type of advertising can significantly increase the exposure of event across the region.

Billboards advertising and the use by the event sector can have potential significant benefits for both the event and in turn government, driving tourism and business investment.

**4. Ways in which elements of billboard advertising could be regulated in the ACT to limit environmental or aesthetic impact, including number, size, location, advertising periods and content.**

Principles for managing impacts of advertising

Billboard advertising could be regulated by focussing on promoting better and consistent outcomes for the community, recognising recent innovations in advertising and the associated opportunities, while ensuring the character of the ACT as the nation's capital. This may include consideration of:

- improving the look of the city to match community expectations;
- promoting Canberra as a smart and sophisticated city;
- complementing Canberra's role as the nation's capital;
- providing for consistent outcomes across forms and land use;
- promoting the integration of the Canberra community through improved access to community, public service, public emergency or tourist information;
- addressing public amenity, safety and environmental concerns; and
- allowing for greater economic opportunities for organisations, businesses and government.

The following impacts should be considered as the basis for regulation of billboard advertising:

- hazards for persons who will be passing and in view of the advertising, such as driver distraction and pedestrian impediments;
- prevalence of advertising and the cumulative impact on certain demographics, such as children and older people;
- energy consumption;
- noise or light pollution/LEDs, including effects on human health and animal behaviour;
- visual pollution;
- heritage values;
- property values;
- the ability to remove advertising once installed, noting infrastructure may be temporary/fixed/semi-permanent and require appropriate regulation;
- any new advertising should require a reduction in old signage, such as replacement of multiple sandwich boards on footpaths and median strips with dedicated advertising points (digital or otherwise) at entrances to suburban centres and thoroughfares that streamline the streetscape;
- bill postering and graffiti are effectively managed by providing a small number of legal sites in which it can be undertaken, rather than prohibition, other signage should also be managed in the same way; and
- billboards should not be allowed to be erected in the nature conservation estate (reserves, national parks etc), or on areas of ecological significance (e.g. where there is known habitat for the Golden Sun Moth, a listed endangered species).

Current regulations in the ACT and other jurisdictions suggest that such factors can be mitigated to a community acceptable level.

### Managing content of advertising

If digital billboards are introduced in the ACT and managed by the Government, there would be merit in aligning any advertising requirements with existing policies that are in place across Government infrastructure.

The Government ensures that the products and messages that are promoted on its infrastructure are suitable and appropriate for the broader population and in line with the values of the Canberra community and Government objectives.

The Government has existing requirements for advertising on ACTION buses. Some of these requirements have been in place for a number of years. In 2015, the ACTION bus advertising requirements were extended in response to community expectations and Government priorities.<sup>10</sup>

In addition to advertisements meeting Australian Advertising Standards, advertisements on ACTION buses must not represent, portray or promote:

- a contravention of any legislation or regulation;
- tobacco or tobacco products;
- political or religious advertising. Advertising materials that are political party based are not permitted. Advertising materials that are political in nature but are related to a specific subject or issue will be considered on a case-by-case basis;
- weapons;
- junk food, fast food or unhealthy food and drinks as defined by the Australian Dietary Guidelines and associated Australian Guide to Healthy Eating;
- gambling;
- alcohol;
- fossil fuels;
- a message that demeans or discourages the use of public transport;
- a message that demeans public transport users;
- a message that promotes unacceptable behaviour to or on the transport vehicle;
- a message that poses either a danger or confusion to traffic, or a risk to the health or safety of the public generally;
- a message that can be deemed offensive or demeaning to specific community groups (i.e. religious, ethnic, women, etc.); and/or
- other matters which may be determined by the Government and advised to the advertising provider, Go Transit, in writing.<sup>11</sup>

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<sup>10</sup> ACT Government media release (28 September 2015), [http://www.cmd.act.gov.au/open\\_government/inform/act\\_government\\_media\\_releases/rattenbury/2015/buses-will-no-longer-advertise-junk-food,-alcohol,-gambling-and-weapons](http://www.cmd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2015/buses-will-no-longer-advertise-junk-food,-alcohol,-gambling-and-weapons)

<sup>11</sup> Transport Canberra website – Advertising on an ACTION bus, <http://www.transport.act.gov.au/about/policy/media-and-advertising/advertise-on-a-bus>

The Government and the ACTION bus advertising provider works closely with businesses and organisations to progress advertisements while ensuring that these requirements are met.

The advertising requirements on ACTION buses to focus on food and drinks aligned to the Australian Dietary Guidelines supports efforts under the Government's Healthy Weight Initiative (HWI) to improve the local food environment and limit unhealthy food and drink marketing, particularly where directed to children. The HWI aims to halt the rising rates of overweight and obesity in the ACT.

Approximately 25 per cent of children and 63 per cent of adults in the ACT are overweight or obese.<sup>12</sup> As a result, a growing number of people are at risk of premature cardiovascular disease, stroke, diabetes, arthritis and a host of other conditions. This is expected to place added pressure on the health system as it responds to higher rates of major, preventable illness.

There is strong evidence that childhood obesity, in particular, is influenced by the marketing of food and drinks high in saturated fat, salt and/or added sugar. A core recommendation of the World Health Organization Commission on Ending Childhood Obesity is to reduce children's exposure to all such marketing.<sup>13</sup>

According to the OMA Annual Report, \$36.5 million was spent on food marketing across outdoor media platforms (e.g. billboards, bus stations, shopping centres, railway stations and street furniture) in Australia in 2015. A further \$32.1 million was spent on outdoor marketing of non-alcoholic beverages. Among the top outdoor advertising categories in Australia in 2015, food ranked seventh and non-alcoholic beverages ranked ninth.<sup>14</sup>

In the ACT, a 2013 report by the Heart Foundation found 940 instances of food and drink marketing across 61 sites, including sports venues, shopping centres and within close proximity of schools. The majority of the marketing (78%) was for unhealthy food and drink products, including fast food, salty snacks, cakes, biscuits, confectionery and sugar-sweetened beverages.<sup>15</sup>

If digital billboards are introduced in the ACT, consideration should be given to protecting the community, particularly children, from further exposure to unhealthy food and drink marketing.

If billboards are not managed by the Government, the Committee could consider where the provision of advertising requirements would sit (e.g. in the Territory Plan or as a billboard advertising code). Relying on the Australian Advertising Standards

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<sup>12</sup> ACT Health (2016), *Healthy Canberra*, Australian Capital Territory Chief Health Officer's Report 2016, ACT Government, Canberra ACT

<sup>13</sup> Report of the Commission on Ending Childhood Obesity (2016), Geneva: World Health Organization

<sup>14</sup> Outdoor Media Association (2015), Annual Report 2015, accessed on 19 May 2017 at [http://oma.org.au/\\_\\_data/assets/pdf\\_file/0006/14739/OMA\\_Annual\\_Report\\_2015.pdf](http://oma.org.au/__data/assets/pdf_file/0006/14739/OMA_Annual_Report_2015.pdf)

<sup>15</sup> Heart Foundation. Food and beverage marketing to children in the ACT: Persistent, pervasive and persuasive. <http://findahealthservice.act.gov.au/c/fahs?a=glob&object=1426024337>

will not be sufficient due to the voluntary and self-regulated approach to these standards.

As part of the Committee's deliberations, consideration could be given on any advertising revenue requirements, where the revenue should go and how it should be used in order to get the most benefit.

## 5. Any other relevant matter.

### The need for regulatory reform

In summary, the Government believes that change is required to update regulatory settings for advertising signage and to take up the opportunities available to improve the look of the city and provide benefit for the community.

The current regulatory requirements and arrangements are no longer current and need to be made fit-for-purpose and effective. Current regulatory settings for outdoor advertising are outdated and promote inconsistent outcomes for advertising across Canberra. It is no longer clear that they meet community or advertising industry expectations and needs.

The Government is committed to maintaining and supporting Canberra's role as the national capital in undertaking such a review and related reforms. Any review of the regulatory settings should take a holistic approach and examine how the different regulatory systems, including the codes under the National Capital Plan and Territory Plan and the PULA, interact and could be designed in the future to provide a more consistent and modern approach to outdoor advertising, including billboards.

Further actions will be required on related matters. For example, the Government Response to the Report on the ACT Legislative Assembly Election 2016 indicates that the Government is aware that election signage is a source of irritation and frustration for the public, and is investigating options for the most appropriate solution to this issue. The Government Response was tabled on 8 June 2017. The actions on corflutes could be appropriately considered within a review of outdoor advertising.

A review of outdoor advertising would need to be considered in the context of both the existing inquiries/reviews in this area, as well as the broader community engagement reform work being undertaken by the Government.

If Government decides to proceed with a formal review, it could focus on promoting better and consistent outcomes for the community, recognising recent innovations in advertising and the associated opportunities, while ensuring the protection and enhancement of the character of the ACT as the nation's capital and a garden city.

This may include a review framework that considers actions such as:

- improving the look of the city to match community expectations;
- promoting Canberra as a smart and sophisticated city;
- complementing Canberra's role as the nation's capital and its character as a garden city;
- providing for consistent outcomes across forms and land use;
- promoting the integration of the Canberra community through improved access to community, public service, public emergency or tourist information;
- addressing public amenity, safety and environmental concerns;

- embedding the principle of sustainability through types of technology use and impact on the environment; and
- allowing for greater economic opportunities for organisations, businesses and government.

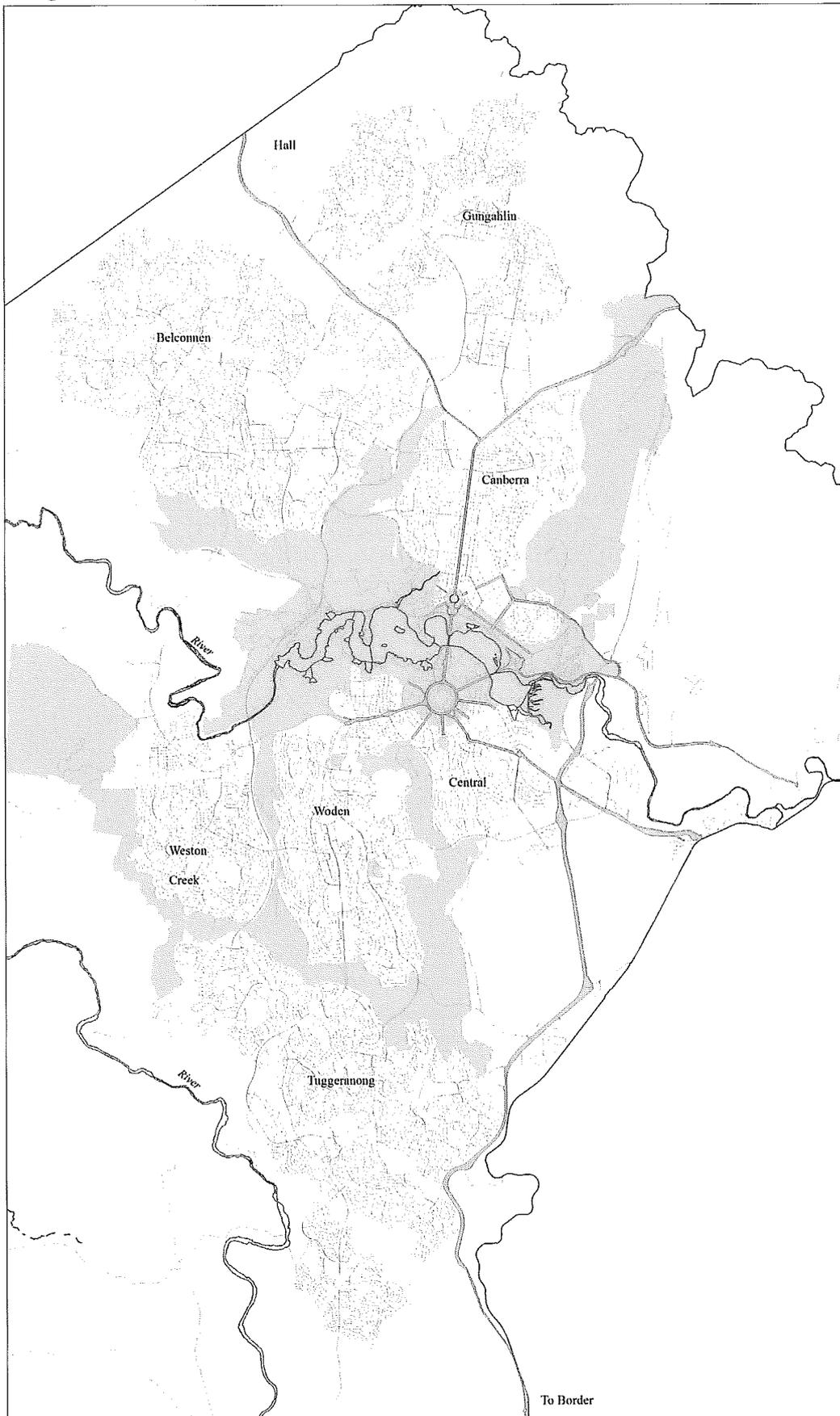
A review could also provide the basis for community education and engagement on outdoor advertising.

The Government looks forward to the results of the Inquiry into Billboards, and that the Committee consider the following points in its report to the Assembly in October 2017:

- recognise that a considered review of the broader signage and advertising in the public realm is required;
- put forward constructive suggestions for improvements to regulatory settings to be considered as part of that review;
- note the need to engage and consult the community effectively on any changes; and
- note the Government's commitment to regulatory reform taking into consideration Canberra's role as the national capital.



Designated Areas (Main Avenues and Approach Routes)





Designated Areas (Main Avenues and Approach Routes)

