

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of hearing of a  
submission and further  
submission lodged by the  
**OUT OF HOME MEDIA  
ASSOCIATION OF  
AOTEAROA INC.** in  
respect of the 'Signs'  
Chapter and the 'Signs'  
Design Guide **Proposed  
Wellington City  
District Plan**

**MEMORANDUM TO ACCOMPANY EVIDENCE OF COUNSEL FOR  
THE OUT OF HOME MEDIA ASSOCIATION OF AOTEAROA INC.**

1. **INTRODUCTION**

- 1.1 As outlined in Ms O'Connor's evidence, the Out of Home Media Association of Aotearoa ("OOHMAA") is a not-for-profit industry body that represents the majority New Zealand's out of home media ("OOH Media") (i.e., outdoor advertising/ billboard) companies. Ms O'Connor's evidence makes clear that OOHMAA has a strong commitment to ensuring good practice.

- 1.2 OOHMAA's members are engaged in third party advertising of goods and services. OOH Media has long been recognised as a legitimate form of media and commercial activity. Collectively, OOHMAA's members contribute over 90% of total OOH Media advertising industry revenue, being \$180 million in 2023.
- 1.3 OOHMAA lodged with the Wellington City Council ("Council"):
  - (a) A submission dated 12 September 2022 in respect of the 'Signs' Chapter and the 'Signs' Design Guide' contained in the Proposed Wellington City District Plan ("PWDP"); and
  - (b) A further submission dated 2 December 2022 in opposition to the primary submission filed by Waka Kotahi.
- 1.4 Further submissions were lodged in relation to the OOHMAA primary submission.

#### **Purpose and scope of memorandum**

- 1.5 This memorandum has been prepared to accompany the evidence filed by OOHMAA in order to assist the Panel in understanding the case to be presented on behalf of OOHMAA. To that end, this memorandum:
  - (a) Provides a brief overview of OOHMAA's primary submission and its further submission on Waka Kotahi's primary submission (Section 2).
  - (b) Addresses the relevant section of the section 42A report (Section 3).
  - (c) Sets out the evidence to be presented on behalf of OOHMAA in the order we respectfully request it be read (Section 4).
  - (d) Provides a brief synopsis of the key propositions of OOHMAA's case (Section 5).

## 2. **RELEVANT SUBMISSIONS AND RELIEF SOUGHT**

2.1 This section provides a brief overview OOHMAA's primary and further submissions, and submissions relevant to the OOHMAA submissions.

### **Relief no longer pursued**

2.2 At the outset, we note that OOHMAA is no longer pursuing its submissions in relation to:

- (a) The default restricted discretionary activity status for digital signs (despite OOHMAA's position that there is no justification for classifying digital signs differently from static signs).
- (b) The inclusion of the Signs Design Guide, which OOHMAA considered to be problematic, particularly its 'prioritisation' system which establishes a set of 'requirements' separate to the Signs Chapter provisions.
- (c) Standards relating to 'illuminated signs', which OOHMAA consider to be confusing and difficult to understand.

### **OOHMAA primary submission**

2.3 OOHMAA lodged a submission on the PWDP on 12 September 2022. The submission was a well-considered document that took full account of the planning implications of the provisions proposed. The submission both supported and opposed various elements of the PWDP.

2.4 OOHMAA supported:

- (a) The various activity statuses applicable to third-party signs in specified zones depending on their compliance with the relevant 'Sign' standards and the sensitivity of the underlying zone; and

- (b) The intention to apply standards to manage the potential traffic safety effects, as well as prescribing parameters for operation of digital signs and billboards.

2.5 While supportive of their intent, OOHMAA sought amendments to the following:

- (a) Objective 'SIGN-O1' by expanding the sole focus beyond local amenity to consider other factors such as historic heritage, archaeological sites, sites of significance to Māori, and the efficiency and safety of transport networks.
- (b) Policy 'SIGN – P1' by allowing for signs where they are appropriately designed and operated to manage adverse effects (as opposed to avoiding adverse effects).
- (c) Policy 'Signs-P2' to remove the 'blanket' requirement that digital or illuminated signs not be visible from a state highway.
- (d) Standards 'SIGN-S1' and 'SIGN-S4' to reflect consistency between the Metropolitan Centre Zone and the City Centre and Mixed-Use Zones as these zones share similar characteristics.

2.6 OOHMAA opposed, and sought to amend the following:

- (a) Rules and standards which seek to manage the design, location, and luminance of signs which face a state highway as there are no inherent differences between local roads and state highways which would otherwise result in digital or illuminated signs being unacceptable.
- (b) Standards providing minimum separation distances between signs in different traffic speed zones which was considered impractical and inefficient.

- (c) Standards relating to the operation of digital billboards that are onerous and unjustified, in particular standards concerning:
  - (i) Image content, specifically contact information and character limits, in light of the lack of recorded safety effects or evidence supporting these proposed limits to image content standards.
  - (ii) Minimum dwell time, given the lack of research demonstrating a measurable difference in effect on driver performance resulting from the dwell time for the display of digital messages.
  - (iii) Image transitions, which OOHMAA does not consider reflects standard industry practice.

### **OOHMAA further submission**

2.7 On 2 December 2022, OOHMAA filed a further submission in opposition to Waka Kotahi's submission. In broad terms, OOHMAA's main concerns were:

- (a) That many of the proposed amendments were:
  - (i) Inconsistent with the relief sought by OOHMAA's primary submission; and
  - (ii) Inappropriate and will result in unnecessary and onerous provisions for signage, particularly digital billboards.
- (b) Waka Kotahi's support of the general 'blanket' approach to applying more onerous provisions for signs and billboards that are visible from a state highway.

2.8 The only aspect of the Waka Kotahi submission that OOHMAA did not oppose was Waka Kotahi's request to delete the restriction in Standard 'Signs-S8' on the use of a 'dissolve' between messages

displayed on a digital billboard, which is consistent with the relief sought by OOHMAA in its primary submission.

### **Further submissions in relation to OOHMAA's submission**

#### Further submissions in support

2.9 Three further submissions that supported OOHMAA's submission in its entirety were lodged by:

- (a) Simon Nightingale;
- (b) JCDecaux New Zealand Trading Limited; and
- (c) Mediaworks Outdoor Limited.

2.10 All three parties submitted that:

- (a) The signage provisions proposed by the PWDP are unduly prohibitive and will have a significant adverse effect on the OOH Media / third party advertising industry; and
- (b) They supported OOHMAA's primary submission in its entirety.

#### Further submission in opposition

2.11 Waka Kotahi lodged a further submission that opposed a number of amendments proposed by OOHMAA. Waka Kotahi's reasons for opposition were primarily concerned with 'traffic safety effects'. The sole submission point that Waka Kotahi supported was in respect of OOHMAA's proposed amendments to objective 'Signs-O1' which Waka Kotahi supported "*...insofar as this relates to maintaining the efficiency and safety of the transport network.*"<sup>1</sup>

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1 Further Submission by Waka Kotahi (further submission 103) dated 2 December 2022, page 5, submission point 284.11.

### 3. **SECTION 42A REPORT**

3.1 The section 42A Hearing Stream 7 – Signs Report (“Report”) dated 20 February 2024 sets out the reporting officer’s recommendations for the PWDP in light of the submissions and further submissions.

3.2 The reporting officer accepted OOHMAA’s suggested amendments as they relate to:

(a) Incorporating all relevant matters for consideration in Signs objective, which the reporting officer agreed provides greater clarity.<sup>2</sup>

(b) Removing the preclusion of ‘dissolving’ transitions for digital billboards within permitted signage standards, which the reporting officer agreed is appropriate and unlikely to cause greater traffic safety effects.<sup>3</sup>

(c) Removing the minimum separation distance for signs within 0-70km speed areas.<sup>4</sup>

3.3 The reporting officer disagreed with OOHMAA on the following points:

(a) Inclusion of an ‘unacceptable’ qualifier for visual clutter on the basis that the Signs chapter is intended to manage the adverse effects of any visual clutter and the resource consent process will enable this assessment.<sup>5</sup>

(b) Equal treatment of digital and static signs. The reporting officer considered that digital signs had a larger range of potential adverse effects in comparison to static signs and

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2 Section 42A report at section 3.6.1 (SIGN-01 (Role of Signage)).

3 Section 42A report at section 3.9.7 (Sign-S8 – Digital Signs).

4 Section 42A report at section 3.9.6 (Sign-S7 – Traffic Safety).

5 Section 42A report at section 3.3 (General Submissions - Signs).

recommended retaining the Restricted Discretionary activity status.<sup>6</sup>

- (c) The differential treatment of signs facing the state highway network. No specific reason is provided by the reporting officer for its rejection of OOHMAA's proposed policy amendments;<sup>7</sup> however, the reporting officer considers that the state highway network is a critical piece of roading infrastructure that features a higher volume of traffic and generally higher operating speeds than any other road within Wellington.<sup>8</sup>
- (d) OOHMAA's request to delete/amend standards relating to the development and operation of digital billboards, including:
  - (i) The design, location, and luminance of signs that are visible from the state highway. The reporting officer sought to retain these requirements on the basis that they are necessary for managing adverse safety effects and certain standards were drafted in consultation with Waka Kotahi.<sup>9</sup>
  - (ii) Image content (contact information and character limits) as the reporting officer believes these factors contribute to adverse safety effects.<sup>10</sup>
  - (iii) Dwell time as the reporting officer concluded that the dwell times proposed in the PWDP are based on traffic safety concerns, and dwell times that are too

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6 Section 42A report at sections 3.7.1 (SIGN-P1 (Appropriate signs)); 3.8.3 (SIGN-R3 (On-Site signs)); 3.8.4 (SIGN-R4 (Third-party signs) and 3.8.5 (SIGN-R5 (Digital signs)).

7 Section 42A report at section 3.7.2 (SIGN-P2 (Digital and illuminated signs)).

8 Section 42A report at section 3.9.1 (SIGN-S1 (Maximum area of any sign)).

9 Section 42A report at section 3.9.1 and 3.9.4 (SIGN-S5 (Signs located on a building or structure)).

10 Section 42A report at section 3.9.7 (SIGN-S8 (Digital Signs)).



quick can cause unnecessary distraction to drivers.<sup>11</sup>

- (iv) Maximum height and sign area, which OOHMAA sought to be consistently applied across zones with similar characteristics. The reporting officer noted that these zones are often adjoining residential zones and there is a resource consent process available for applications that exceed these standards.
- (e) OOHMAA's proposed removal of the minimum separation distance for signs within 70km/hr plus speed areas, which the reporting officer considered addressed traffic effects.<sup>12</sup>
- (f) OOHMAA's proposed deletion of the Signs Design Guide, which the reporting officer considered provided useful guidance on the design and placement of signs.<sup>13</sup>

#### 4. **OOHMAA'S EVIDENCE**

4.1 With this memorandum, OOHMAA is filing evidence from three witnesses in support of its submissions on the PWDP, namely:

- (a) Natasha O'Connor – OOHMAA's role and position.
- (b) Brett Harries – traffic and transportation; and
- (c) Anthony Blomfield – planning.

##### **Corporate - Natasha O'Connor – OOHMAA**

4.2 Natasha O'Connor is Chief Executive Officer of OOHMAA, a position she has held since 2019.

4.3 Ms O'Connor's evidence:

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11 Section 42A report section 3.9.7 (SIGN-S8 (Digital Signs)).  
12 Section 42A report at section 3.9.6 (Sign-S7 – Traffic Safety).  
13 Section 42A report section 3.8.4 SIGN-R4 (Third-party signs).

- (a) Provides an overview of OOHMAA and the OOH Media industry more generally; and
- (b) Provides an overview of OOHMAA's position on the PWDP, including the basis for OOHMAA's support of certain elements of the PWDP and its key concerns in relation to specific provisions proposed by the PWDP.

**Traffic safety – Brett Harries, Harries Transportation Engineers**

4.4 Mr Brett Harries has 41 years of post-graduate professional experience as a practising specialist traffic and transportation engineer and is the director of Harries Transportation Engineers.

4.5 Mr Harries' evidence:

- (a) Provides a general overview of the road safety implications of digital billboards by reference to applicable New Zealand and international research, as well as actual road safety data arising from the operation of digital billboards in New Zealand.
- (b) Comments on traffic engineering and road safety aspects of OOHMAA's submission that relate to:
  - (i) Image content;
  - (ii) Minimum separation distances;
  - (iii) Operation of digital billboards
  - (iv) Signs visible from a state highway.
- (c) Comments on traffic engineering and road safety aspects of OOHMAA's further submission to Waka Kotahi's primary submission.

**Planning – Anthony Blomfield, Bentley & Co**

4.6 Mr Anthony Blomfield is a planner and resource management consultant with Bentley & Co with 23 years planning experience.

4.7 Mr Blomfield's evidence will contain an overall planning assessment which addresses key issues with the provisions of the PWDP addressed in OOHMAA's submission and further submission and includes any recommended amendments.

## 5. **SYNOPSIS OF OOHMAA'S CASE**

5.1 At their most basic level, the key propositions that we submit are supported by the evidence referred to above and, in turn, support the amendments proposed by OOHMAA are as follows:

(a) The Signs Chapter of the PWDP represents a valuable opportunity to provide a clear regime for the development of signage in a way that manage adverse effects and provide for the appropriate development of signage in Wellington City.

(b) As drafted, there are a number of shortcomings with the PWDP, both as notified and with the recommendations in the section 42A report, particularly in relation to:

(i) A policy that takes a 'avoidance-based approach' to visual clutter.

(ii) Policy and standards that provide for unjustified differential treatment of signs which face a state highway, particularly in respect of signage design, location, and luminance.

(iii) Standards governing the operation of digital billboards that are unduly onerous and/or lack any evidential basis.

5.2 The amendments proposed by OOHMAA will ensure that:

- (a) The provisions of the PWDP takes a management-based (rather than an avoidance based) approach to adverse effects generated by signage that is consistent with the Resource Management Act 1991.
- (b) Will ensure that standards are consistent with established industry practice and applicable New Zealand and international research and industry data.
- (c) The PWDP does not result in an unduly prohibitive resource consenting regime.

5.3 Having regard to the above, OOHMAA submits that it is appropriate that its proposed amendments be accepted, on that basis that:

- (a) In terms of section 32 of the RMA:
  - (i) The proposed objective is the 'most appropriate' means of achieving the purpose of the RMA; and
  - (ii) The proposed rules and standards are the most appropriate way of achieving the objectives of the PWDP.

5.4 Counsel and the OOHMAA team are grateful to the Panel for their attention to this memorandum.

**DATED** at Auckland this 5th day of March 2024



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**S J Berry / S T Macdonald**

**Counsel for Out of Home Media Association of Aotearoa Inc.**