

**Report to the Resource Consents Hearing Commissioner  
on a Publicly Notified Resource Consent**

15 November 2022

Service Request No: 513399  
File Reference: 1045050

<b><u>Site Address:</u></b>	2 Jervois Quay, Wellington Central
<b><u>Legal Description:</u></b>	Lot 11 DP 11204 in RT WN33D/660
<b><u>Applicant:</u></b>	New Zealand Fruitgrowers' Charitable Trust
<b><u>Proposal:</u></b>	To erect an electronic billboard to the existing framework on the roof of the building
<b><u>Owners:</u></b>	Huddart Parker Building Limited
<b><u>District Plan Area:</u></b>	Central Area
<b><u>Activity Status:</u></b>	Discretionary (Restricted) - Operative District Plan

**PROFESSIONAL BACKGROUND**

1. My name is Elliott Thornton, I am a Principal Planner at Cuttriss Consultants Ltd, working in the role of Senior Consultant Planner on behalf of the Resource Consents team at Wellington City Council. I hold a Bachelor of Urban and Environmental Planning from Griffith University, Brisbane Australia. I have over 18 years of planning experience, across private and public sectors in Australia and New Zealand, including over 5 years New Zealand planning experience, of which I was employed directly by the Wellington City Council. I am a Full Member of the New Zealand Planning Institute.
2. I have extensive experience in consenting billboards on behalf of Wellington City Council including:
  - SR511424 – 13 Jean Batten Street, Rongotai;
  - SR406457 – 85 Ghuznee Street, Te Aro;
  - SR407591 – 141 Manners Street, Te Aro;
  - SR443469 – 42 Victoria Street, Wellington City; and
  - SR457045 – 673 Hutt Road, Horokiwi (State Highway 2).
3. I have also assisted in the consenting of a billboard on behalf of Hutt City Council, RM22918 – 47 The Esplanade, Petone and provided expert planning evidence to a notified hearing for a billboard on behalf of Waka Kotahi, NZ Transport Agency on SR500804 – 251 Victoria Street, Te Aro.
4. I confirm that I have read the Code of Conduct for expert witnesses contained in section 7 of the 2014 Environment Court Practice Note and agree to abide by the principles set out therein.

## SITE DESCRIPTION AND CONTEXT

### Site Description:

5. The application site is on the corner of Jervois Quay and Post Office Square, in Wellington Central. The site accommodates the heritage-listed Huddart Parker Building, which is a 7 storey building with a ground level restaurant and café.
6. On the rooftop is the remnants of steel support framework of a former sign which displayed the time, temperature and the letters of a company, most recently being MoreFM, but historically Caltex. The former signage was removed sometime between 2009 and 2013. The Huddart Parker Building is located within the Post Office Square Heritage Area.

### Surrounding Context:

7. The site fronts Post Office Square, a small area of inner-city open space that also forms a key pedestrian link between the Golden Mile (Lambton Quay) and the TSB Arena on the Wellington Waterfront.
8. Surrounding Post Office Square, are a number of buildings of varying heights, most notably is the Intercontinental Hotel. Many of these buildings displaying a company name or logo, all below the building parapet.
9. Of particular note, there is a billboard attached to the side of the building at 86 Customhouse Quay.



Figure 1 - Existing Environment

10. There are no other billboards within the immediate area that are visible from Post Office Square.

### **District Plan Context:**

11. The site is located within the Central Area. The following District Plan notations apply to the subject site:
  - Heritage Areas – Post Office Square Heritage Area Ref. 16
  - Heritage Building No. 155
  - Central Area Viewshaft #15
  - Ground Shaking

### **PROPOSAL**

12. It is proposed to install rooftop advertising signage to the existing landscape-oriented support framework on the roof of the Huddart Parker Building as shown in **Figure 1** above. It will be oriented toward southbound traffic on Customhouse Quay and Jervois Quay.
13. It should be noted that the applicant’s description of the proposal refers to reinstatement of the rooftop signage, whereas we consider the proposal to be more accurately described as installing a new digital rooftop billboard, as the former signage included the letters of a company with gaps in between and was infrequently changed, whereas this proposal includes a digital solid signage displaying advertisements (not just company lettering), which is proposed to change frequently (every 8 seconds).
14. The sign will be in the form of a digital billboard with maximum dimensions of 13m x 4m. The base of the sign will be located approximately in line with the top of the existing parapet. The billboard will be used for third-party advertising and also display the time and temperature within a portion of the screen. The digital display will change on a rotating basis and feature a combination of public information and commercial advertising. It is anticipated that there will be up to six different displays, with a minimum image display time of 8 seconds and a 0.5 second dissolve transition between images.
15. It is proposed to use up to six displays that will rotate with an image display time of 8 seconds minimum, with a 0.5 second dissolve to transition. It is not known yet whether the time and temperature would be present in all displays. Illumination levels will be managed automatically to be responsive to natural changes in ambient lighting.
16. The applicant proffers a condition to create a “deferred maintenance reserve fund” which will use profits from the billboard rental payments to provide general maintenance of the Huddart Parker Building.
17. Further details are provided in the AEE and associated plans and technical documents, contained in **Appendix 1**.

### **RELEVANT NATIONAL ENVIRONMENTAL STANDARD**

18. There are no National Environmental Standards relevant to this proposal.

### **RELEVANT NATIONAL POLICY STATEMENT**

19. The National Policy Statement on Urban Development (NPS-UD) came into effect on 20 August 2020 and is relevant to this proposal. The NPS-UD supersedes the National

Policy Statement on Urban Development Capacity (NPS-UDC), which came into effect from 1 December 2016. Both the NPS-UD and earlier NPS-UDC recognise the national significance of urban environments and the need to enable such environments to develop and change, and to provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments.

20. The purpose of the NPS-UD is to enable development by maximising the benefits of intensification. The NPS-UD directs decision making under the Act to ensure that planning decisions enable development through providing sufficient development capacity for housing and business.

### **PROPOSED DISTRICT PLAN**

21. On 18 July 2022 the Council notified the Wellington City Proposed District Plan (PDP).
22. The PDP is a full review of the District Plan, which is due every 10 years under the RMA. Amongst other things, it also gives immediate effect to aspects of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Amendment Act), enacted in December 2021, as well as the National Policy Statement for Urban Development, Policies 3 and 4 (intensification and qualifying matters), of which neither are applicable to the proposal.
23. However, the following provision in the PDP that is applicable and does have immediate legal effect are those that relate to Historic Heritage.
24. The PDP doesn't change any of the relevant notations under the operative District Plan.
25. This resource consent application was lodged prior to notification of the PDP, and therefore it retains the activity status at the time of lodgement pursuant to section 88A, being under the rules of the Operative District Plan.

#### Assessment against PDP:

26. While the proposal retains its activity status under the ODP, the proposal will be assessed against the objectives and policies of the PDP where relevant. If the conclusion reached under the ODP is different to the conclusion reached under the PDP, then weighting of the PDP will be undertaken to determine the recommendation on the application. The weighting of the PDP will be discussed later in this report if necessary.

### **ACTIVITY STATUS**

#### **Operative District Plan:**

27. Resource consent is required under the following rules:

<p><b>Rule 13.3.9 - Signs</b></p> <p>The proposal is for a sign that does not meet all the standards specified in section 13.6.4.1:</p> <ul style="list-style-type: none"> <li>• 13.6.4.1.2 – the proposed sign is located on a building and will project above the parapet level, or the highest part of the building to which the sign is attached.</li> <li>• 13.6.4.1.4 – the proposed sign will be located on a building above 18.6m above ground level and will have a</li> </ul>	<p><b>Discretionary (R)</b></p>
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<p>maximum area of greater than 15m<sup>2</sup> and will not bear only the name and/or logo of the building owner/occupier.</p> <ul style="list-style-type: none"> <li>• 13.6.4.1.7 – the proposed sign is located within the Post Office Square Heritage Area, and it is not intended to bear the name/logo of the owner/occupier of the building.</li> </ul> <p>As such, resource consent for a <b>Discretionary (Restricted) Activity</b> is required pursuant to Rule 13.3.9.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li>• 13.3.9.1 moving images, text or lights</li> <li>• 13.3.9.2 position</li> <li>• 13.3.9.3 dimensions</li> <li>• 13.3.9.4 number of signs</li> <li>• 13.3.9.5 sign display of: temporary signs, or signs located on buildings above 18.6m above ground level, or signs adjoining or opposite the Parliamentary Precinct Heritage Area.</li> <li>• 13.3.9.6 duration (for temporary signs)</li> </ul> <p>It should also be noted, that the non-notification preclusion under 13.3.9 is not explicit (i.e. it states 'do not need' which implies discretion remains for notification) and therefore is not subject to the non-notification provisions<sup>1</sup>.</p>	
<p><b>Rule 21D.3.1 – Sign on a Listed Heritage Building</b></p> <ul style="list-style-type: none"> <li>• The proposal is for a sign on a site on which a listed heritage building is located and is not a Permitted Activity because it exceeds 0.5m<sup>2</sup>.</li> </ul> <p>As such, resource consent for a <b>Discretionary (Restricted) Activity</b> is required pursuant to Rule 21D.3.1.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li>• 21D.3.1.1 Sign design, location and placement</li> <li>• 21D.3.1.2 Area, height and number of signs</li> <li>• 21D.3.1.3 Illumination</li> <li>• 21D.3.1.4 Fixing and methods of fixing.</li> </ul>	<p><b>Discretionary (R)</b></p>

28. I noted the applicant referred to the Embassy Theatre being not notified due to the presence of the non-notification clause. However, as confirmed by the High Court<sup>1</sup> of New Zealand, it has no effect as it is not explicit.

<sup>1</sup> SYDNEY ST SUBSTATION LTD v WELLINGTON CITY COUNCIL [2017] NZHC 2489.

29. Overall, the proposal is assessed as a **Discretionary (Restricted) Activity** under the operative District Plan.

**Activity Status – Summary:**

30. Overall, the proposal must be assessed as a Discretionary (Restricted) Activity.

**NOTIFICATION AND SUBMISSIONS**

**Notification:**

31. The application was publicly notified on 23<sup>rd</sup> August 2022 in accordance with sections 95-95F of the Act. A public notice appeared in the Dominion Post on this date and a sign was erected on the site. All owners and occupiers of land in the immediate area were served a copy of the application.

**Submissions:**

32. A total of 12 submissions were received by the close of submissions on 20 September 2022 at 11.59 pm, and 1 late submission. Of these submissions 3 were opposed to the application, 11 were in support of the application.
33. Submissions were received from the following parties:

#	Submitter	Address	Support/ Oppose
1	David Stevens	63 Rangoon Street, Khandallah	Support
2	Steve Maitland	5 Stormanstown Way, Wellington	Support
3	Kirsty McDonald	32 Hawkestone Street, Thorndon	Support
4	Michael Gaffaney	31 Parata Street, Waikanae	Support
5	David Paetz	25 Graham Street, Petone	Support
6	Lenie Emmerson	439A Broadway, Miramar	Support
7	Roberta Hall	87 Harakeke Road, Te Horo Beach	Support
8	Neil Rossiter	44 Calcutta Street, Khandallah	Support
9	Simon Hegarty	16 Awa Road, Miramar	Support
10	Scott Hamilton (InterContinental Hotel)	2 Grey Street, Wellington	Oppose
11	Alastair Hutchens	9 Amritsar Street, Khandallah	Support
12	Wayne Kears	12 Koromiko Road, Highbury	Support
13	Hamish Wesney (Boffa Miskell Ltd)	1 Post Office Square, Wellington	Oppose
14	Stout Street Chambers (2013) Ltd	1 Post Office Square, Wellington	Oppose (Late)

34. The following issues were raised in the submissions:

35. Opposed:

- The billboard detracts from the character of the building.
- The billboard is visually dominant and not integrated into the architecture of the building.
- The billboard is not in keeping with the heritage values of the building.
- The billboard LED lights will cause inconvenience of hotel guests through light nuisance.
- The billboard is not necessary for the building owner to fund maintenance of the building.
- The billboard is inconsistent with the District Plan policies and the Design Guide for Signs.

36. Support:

- Would like to see the reinstatement of temperature and time as a former iconic city landmark.
- Nostalgia element of the former temperature and time.
- Consider the proposal a convenient way to see the temperature and time during commuting.

37. There was one late submission.

38. The submissions in full are collated in **Appendix 2** of this report.

Late Submissions:

39. Pursuant to section 37 of the Act, the Council may waive compliance with a time limit specified in the Act.

40. When considering waiver of a time limit for submissions for this proposal, the consent authority took into account the following matters (s37A(1)):

- (a) The interests of any person who, in its opinion, may be directly affected by the extension; and
- (b) The interests of the community in achieving adequate assessment of the effects of any proposal; and
- (c) Its duty under section 21 to avoid unreasonable delay.

41. Submissions for public notification closed at 11:59pm on 20 September 2022. A submission via email was received at 7:51am on 21 September 2022.

42. The applicant, Keith Mackenzie of the New Zealand Fruitgrowers Charitable Trust has advised they do not agree to accept a late submission.

43. The Council in considering whether to waive compliance with a time limit must have regard to the test under section 37A(1) above.

44. In considering the above matters, I have considered the interests of applicant who may be directly affected by the waiver, and the interests of the community in achieving adequate assessment of the effects of the proposal.

45. The applicant in my opinion, is not adversely affected by the waiver, as practically the submission was still received before the open of business following the close of submissions, and therefore is not disadvantaged in any way, noting that their preferred date for a hearing was in December 2022.

46. I have also considered the interests of the community in achieving adequate assessment of the effects of this proposal and consider that as a local tenant of the potentially affected heritage listed building, it may aid in understanding the effects of the proposal.
47. Based on the above, the Council officers have exercised their delegated authority to waive the time period and accept the late submission(s) accordingly. A file note setting out the full reasons for this decision is available on the property file.

## STATUTORY CRITERIA

48. Under section 9(3) of the Act:

*“No person may use land in a manner that contravenes a district rule unless the use-*

- (a) is expressly allowed by a resource consent; or*
- (b) is allowed by section 10; or*
- (c) is an activity allowed by section 10A.”*

49. The application is for a Discretionary (Restricted) Activity under the District Plan. The Council may grant or refuse consent under section 104C of the Act and, if granted, may impose conditions under section 108 of the Act.
50. Section 104(1) of the Act sets out matters a consent authority shall have regard to in considering an application for resource consent and any submissions received. Subject to Part 2 of the Act (Purposes and Principles), the matters relevant to this proposal are:

*Section 104 (1) (a) “any actual and potential effects on the environment of allowing the activity;”*

*Section 104 (1)(b) “any relevant provisions of-*

- (i) a national environmental standard;*
- (ii) other regulations;*
- (iii) a national policy statement;*
- (iv) a New Zealand coastal policy statement;*
- (v) a regional policy statement or proposed regional policy statement;*
- (vi) a plan or proposed plan”*

*Section 104 (1)(c) “any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*

51. Part 2 (Sections 5, 6, 7 and 8) of the Act sets out the purpose and principles of the legislation, which as stated in section 5, is *“to promote the sustainable management of natural and physical resources”*. Section 5 goes on to state that sustainable management should enable *“people and communities to provide for their social, economic and cultural wellbeing and for their health and safety whilst (amongst other things) avoiding, remedying or mitigating any adverse effects of activities on the environment”*.
52. In addition, Part 2 of the Act requires the Council to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).
53. An assessment against Part 2 of the Act will be undertaken later in this report.

## SECTION 104 ASSESSMENT



### **Section 104(1) Assessment:**

54. The first requirement under section 104 of the Act is to assess the effects that the proposal may have on the surrounding environment (section 104(1)(a)). The second part of the assessment is to consider whether the proposal is consistent with the outcomes sought by any relevant higher order planning documents, and the relevant objectives and policies of the District Plan (section 104(1)(b)). The third part of the assessment is to consider whether any other matters apply (section 104(1)(c)).

### **Section 104(1)(a) – Effects Assessment:**

#### **Permitted Baseline:**

55. In forming the opinion for the purposes of section 104(1)(a), a consent authority may disregard an adverse effect of the activity on the environment, if the Plan permits an activity with that effect (in accordance with section 104(2) of the Act).
56. As outlined in the Notification Decision Report, any sign on a site on which a listed heritage building is located must not be more than 0.5m<sup>2</sup> to be provided for as a permitted activity. Given the small extent provided for as a permitted activity, the permitted baseline is considered to be of no relevance to the proposal.

#### **Existing Environment:**

57. It is appropriate to consider the effects of the development in comparison to the existing building development on the site (ie the existing environment). The image in Figure 1 above shows the locations of the existing buildings on the subject site and the proposed new billboard.
58. Although a sign previously existed on this building using the same support framework, existing use rights in accordance with section 10 of the RMA do not apply.
59. The previous sign has been absent for a period far in excess of the 12 months provided for by s10(2) and even if this time had not lapsed, it is considered that the proposed sign is not of the same character, intensity or scale as the previous sign.
60. As such existing use rights do not apply and have not been considered in this assessment.

#### **Effects Assessment:**

61. A full assessment of the potential adverse effects of the proposal was provided in the Notification Decision Report contained in **Appendix 3** that precedes this report and the conclusions reached are relevant to the effects assessment under section 104(1)(a) undertaken below. The Notification Decision Report should be read in conjunction with this report and is included at Appendix 2 of this report.
62. The Assessment of Adverse Effects of this report further discusses the matters addressed by the Notification Decision Report, and the additional matters raised in the submissions under the headings below:
  - Traffic Effects
  - Streetscape and Visual Amenity Effects
  - Heritage Effects

#### Traffic Effects:

63. An assessment of traffic effects, notably safety, is contained in the Notification Decision Report.
64. In summary, based on the information within the Traffic Engineering Report prepared by Stantec and submitted with the application and on the advice of Mr Pungiah, Council's former Senior Transportation Engineer, and subsequently confirmed by Soon Kong, Council's Transport Engineer and Operations Manager, I concluded that the effects on traffic and pedestrian safety to be no more than minor.
65. I noted in that decision that digital billboards are designed to convey a message which can be a cause of distraction. I also noted that the Huddart Parker building is located adjacent to a key pedestrian crossing point between Lambton Quay and the Wellington Waterfront meaning that if driver were to be distracted, there is the possibility they could miss a traffic signal and collide with a pedestrian, resulting in a severe outcome.
66. I also note that traffic effects were not raised in any of the submissions received.
67. Therefore, as the balance of expert advice received on the matter is supportive from a traffic effects perspective, there are not sufficient grounds to disagree with their conclusions and I therefore consider the effects on traffic and pedestrian safety to be acceptable.

#### Streetscape and Visual Amenity Effects:

68. An assessment of streetscape and visual amenity effects is contained in the Notification Decision Report, and the attached Urban Design Assessment in **Appendix 4**.
69. In summary, I agreed with the advice of Ms Sarah Duffell, Council's Senior Urban Designer who considers that the signage would dominate views along Customhouse Quay and Waterloo Quay for travellers travelling south. It would also be visually obtrusive for pedestrians' route along Grey Street and other key public viewpoints, compromising the visual quality of the wider streetscape and in particular Post Office Square.
70. I note two of the submissions raised similar concerns, noting the submission by Boffa Miskell Ltd who have extensive experience in carrying out visual amenity and landscape effects assessment.
71. As such, I considered that potential adverse effects on streetscape and visual amenity will be more than minor, and I also consider the effects to be unacceptable.

#### Heritage Effects:

72. An assessment of heritage effects is contained in the Notification Decision Report. Further expert evidence has been prepared by Ms Chessa Stevens, Consultant Heritage Advisor, and reviewed and supported by Mr Noel Luzzi, Council's Senior Heritage Advisor. A copy of the heritage expert evidence is attached in **Appendix 5**.
73. In summary, I agree with the advice of Ms Chessa Stevens, Consultant Heritage Advisor who considers that the signage would have a negative effect on the heritage values of both the Huddart Parker Building (which is specifically a Heritage Building in both the District Plan and PDP), and the Post Office Square Heritage Area.

74. Ms Stevens noted that the size, and location being a projection above the rooftop, would result in dominant features on the otherwise characteristically heritage appearance.
75. I note two of the submission raised similar concerns.
76. As such, I considered that potential adverse effects on historical heritage to be more than minor, and I also consider the effects to be unacceptable.

Other Effects:

77. It is noted that the submission by the Intercontinental Hotel raises concerns regarding light nuisance to hotel guests.
78. An assessment of the effects of illumination and nuisance has not been carried out previously, however I note that the Central Area contains a number of different light sources, all of which can change regularly. I also note that billboards are now a common aspect of our central areas, which can add to the vibrancy and commercial character of the central area.
79. I am also aware that the typical illumination technology is such that the illuminance of the billboard can be controlled or 'dimmed down' during the evening to lessen adverse effects.
80. In considering the effects of illumination on the hotel, I consider the effect to be similar to that of internal lighting of a building with the exception of the changing nature of a billboard including the constant change of colours could be cause of distraction and therefore potentially cause nuisance.
81. In considering the effect of the change, I am of the view that this in itself is not cause for an adverse environment effect as the occupants of a hotel, in the centre of the Wellington CBD would, in my opinion, expect a varying and changing environment that is typical of a central area which commonly includes digital billboards.
82. Further, with regards to any sleep disturbance, it would be common for privacy and comfort reasons for hotel guests to close their curtains to limit light spill.
83. I therefore consider the effects of lighting nuisance on the Intercontinental to be less than minor, and acceptable.

Positive Effects:

84. The proposal will have the very limited economic benefits, restricted to the commercial interests of the building owner, contractors, media creators and advertisers. However, these are not public benefits.
85. I note that the Environment Court, in their decision on the digital billboards at 673 Hutt Road, Horokiwi, found that billboards provided no public benefit<sup>2</sup>.
86. I consider that the findings of the Environment Court in that case, as also relevant here.
87. Therefore, I do not consider there to be any positive effects, to counterbalance or consider against any adverse environment effects.

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<sup>2</sup> Prime Property Group Limited v Wellington City Council NZEnvC 2021, paragraph 55

88. I also note that many of the submitters raised, as positive effects, the ability to see the temperature and time during their commute.
89. I do not consider these are particularly relevant or a positive effect as it is now common that most vehicles will display time and temperature on their dashboard or media console. I also consider it common that people have access to time and temperature in a variety of other mediums including on their mobile phone and smartwatch.
90. I also note that many of the submitters raised the nostalgia of the old sign as a positive effect, which is in my view also irrelevant.
91. The applicant and submitters have also raised as a positive effect, the use of revenue for earthquake strengthening and maintenance of the building, by way of a maintenance trust. I am not convinced of the practicality or any legal mechanism available by way of being able to enforce such a suggested condition, particularly with regards to any monitoring for compliance.
92. However, with consideration to this positive effect, I note that the earthquake strengthening was carried out some time ago, without any certainty that a billboard would be consented. I also note that the building owner has historically maintained the building without any billboard revenue and that they would likely have obligations to continue to carry out regular building maintenance, typically paid for by rental income, irrespective of the billboard.
93. I also consider the charitable status of the applicant not relevant. Advertising revenue from billboards only partly goes to the building owner. Other non-charitable commercial interests also benefit such as the advertiser and content providers.
94. With consideration specifically to the building owner, a resource consent of this nature lies with the land, not the individual. Therefore, the beneficiary of the consent could conceivably be a non-charity should ownership change in the future.
95. I therefore do not consider there to be any positive effects, to counterbalance or consider against the adverse environment effects.

Effects Summary:

96. Taking into account the assessment above of the actual and potential effects of the development (including positive effects), I consider the effects of the proposal will be unacceptable.

**Section 104(1)(ab) – Measures to ensure positive effects to offset or compensate for any adverse effects on the environment:**

97. The applicant has not proposed or agreed to any measures to ensure positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. In this case I do not consider there to be any measures that could offset or compensate for the effects on the environment that would be acceptable.

**Section 104(1)(b) - Relevant Planning Provisions:**

98. I have had regard to provisions of the following planning documents as specified at section 104(1)(b)(i) – (vi) of the Act:
  - National Environmental Standards

- Other regulations
- National Policy Statement
- The New Zealand Coastal Policy Statement
- The Wellington Regional Policy Statement
- The District Plan and the PDP

**Higher Order Planning Documents:**

99. Other than the NPS discussed below, there are no National Environmental Standards, other regulations or National Policy Statements that are directly relevant to the consideration of this proposal. Similarly, the New Zealand Coastal Policy Statement is not relevant, as while located close to the coast, the existing environment is highly urban and the visibility of the billboard on the coast, or any natural coastal character is negligible.

National Policy Statement:

100. The objectives of the NPS-UD potentially relevant to this proposal are:

- **Objective 1:** New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
- **Objective 2:** Planning decisions improve housing affordability by supporting competitive land and development markets.
- **Objective 4:** New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.
- **Objective 5:** Planning decisions relating to urban environments take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- **Objective 6:** Local authority decisions on urban development that affect urban environments are:
  - a) integrated with infrastructure planning and funding decisions; and
  - b) strategic over the medium term and long term; and
  - c) responsive, particularly in relation to proposals that would supply significant development capacity.
- **Objective 8:** New Zealand's urban environments:
  - a) support reductions in greenhouse gas emissions; and
  - b) are resilient to the current and future effects of climate change.

101. In addition to this Policies 1, 6, 9(c), 9(d) and 11 apply to resource consent decisions.

102. Having regard to Policy 1, I do not consider the billboard adds or contributes to a well-functioning urban environment.

103. Having regard to Policy 6(b), I do not consider this relevant as neither the District Plan, nor PDP anticipate billboards on heritage buildings, within heritage areas, or above the parapet of a building. Therefore, it doesn't form part of the planning urban built form and therefore, effects generated by the building can, and should form part of the adverse effects consideration.

104. Having regard to Policy 6(c), I do not consider there to be sufficient urban benefits from the billboard, as also confirmed in the Environment Court decision on 673 Hutt Road, Horokiwi, that contribute or are consistent with well-functioning urban environments.

105. I do not consider any other Policies of the NPS-UD to be relevant.

106. As a higher order planning document the relevant objectives and policies of the NPS-UD have been taken into consideration within this decision report.

107. Overall, the proposal is not considered to achieve the outcomes sought by the NPS-UD. Notably, whether the proposal contributes to a well functioning urban environment, I do not consider the proposal to be consistent with the NPS-UD.

Regional Policy Statement:

108. The policies of the Wellington Regional Policy Statement (RPS) have been taken into consideration. In particular I have had specific regard to the following policies:
- **Policy 46:** Managing effects on historic heritage values.
  - **Policy 54:** Achieving the region's urban design principles.
109. For the reasons stated in the heritage effects assessment above, I consider the proposal contrary to Policy 46 in that it effects both a site and area of historic heritage value.
110. I note the effects are reversible, but in particular having regard to item (i) of Policy 46, the relationships between the elements of the site, being the building and its architectural design, will be diminished and therefore not maintained.
111. For the reasons stated in the Streetscape and Visual Effects assessment above, I consider the proposal contrary to Policy 54 in that it doesn't achieve the regional urban design principles, particularly in relation to character, connections and custodianship.
112. The proposal is considered to not accord with the general strategic direction of the RPS and contrary to the relevant objectives or policies, noted above which are also generally reflected in the objectives and policies of the District Plan.
113. It is noted that there is a proposed change to the RPS, however none of the changes are relevant to the proposal.

**District Plan:**

114. I have had regard to the objectives and policies of the District Plan. The following objectives and policies and assessment criteria are considered relevant to the proposal:
- Objective 12.2.10 and supporting policies 12.2.10.1 – 5
  - Objective 20.2.1 and supporting policy 20.2.1.9
  - Assessment Criteria 21D.3.1.5 – 21D.3.1.11

Policy 12.2.10.2

115. I consider the proposal to be contrary to Policy 12.2.10.2 which requires the management of the scale, intensity and placement of signs to maintain and enhance the visual amenity of the host building.
116. I consider the signage to have a scale that would dominate, and neither maintain nor enhance, the architectural or visual amenity of the host building. While the signage would enable the projection of time and temperature desired by some members of the community, this neither maintains an existing environment of no signage, nor enhances the actual visual amenity of the host building, which has significant architectural merit by virtue of its heritage listing.

Policy 12.2.10.3

117. I consider the signage to be contrary to Policy 12.2.10.3 in that the Council's Advisors have advised that it adversely affects the architectural integrity of the building.

#### Policy 12.2.10.4

118. I consider the signage to be contrary to Policy 12.2.10.4 which requires a positive contribution to the visual amenity of the building neighbourhood and cityscape above the fourth storey level. I note the billboard is proposed above the fourth storey, and in the cityscape, the existing buildings does contain signage, albeit predominantly static company logos that are visible through the lettering. I also note that at this location, there are very limited digital billboards. I therefore do not consider a billboard at this location adds any positive contribution, noting that views of whether advertising offers any positive contribution vary significantly in the community, however based purely on the advice of the Heritage and Urban Design Advisor, I do not consider there to be any positive contribution.
119. The lack of positive contribution from digital billboards was also considered in the Environment Court decision on 673 Hutt Road, Horokiwi as noted in the positive effect assessment above.

#### Policy 12.2.10.5

120. I consider the signage contrary to Policy 12.2.10.5 which is to control the number and size of signs within heritage areas, with the supporting information specifically mentioning the Post Office Square Heritage Area as one of those areas where the Council will seeks to not overwhelm or be diminished by an over-proliferation of signage. The signage will in my view, dominate and overwhelm the streetscape values of Post Office Square Heritage Area, and will add to the proliferation of signage as the signage on Customhouse Quay is also visible, but not located within Post Office Square.
121. The supporting information to this policy specifically mentions that third party billboard signage is often larger and more visually dominant than signage associated with a specific activity (i.e. company logo or building name). I consider this policy to strongly discourage third party advertising billboards within a Heritage Area.
122. Further the supporting information to this policy seeks to achieve an environmental result where signage does not detract from the existing heritage values, character and amenity of the relevant heritage area. For the reasons discussed in this report, I consider that this sought outcome will not be achieved.

#### Policy 20.2.1.9

123. I consider the proposal contrary to Policy 20.2.1.9 which requires that signs on heritage buildings, or heritage areas do not adversely affect heritage values and qualities and avoid unnecessary or inappropriate signage.
124. The heritage advice is that the signage does adversely affect heritage values and qualities, and the signage is not necessary as it is not required for safety or way finding. I therefore consider the signage inappropriate.

#### Assessment Criteria

125. Of the relevant assessment criteria, the signage is considered to detract from the heritage significance of the building (21D.3.1.5), detract from the architecture of the building

(21D3.1.6), result in visual clutter (21D.3.17), doesn't complement the building (21D.3.1.8), and doesn't meet the Design Guide for Signs (21D.3.1.11).

**Proposed District Plan:**

126. I have considered the relevant Objectives and Policies of the PDP that have immediate legal effect with regards to heritage.
127. In particular, I note that Policy Sign-P3 which relates to historic heritage mirrors Policy 20.2.1.9 which the specific addition that regard be had to the location and placement of signs that project above the parapet level and that they should reflect the typical positioning of signage on a heritage building and heritage area.
128. I consider this policy to also discourage signage on a heritage building, particularly above the parapet level, which is what is proposed.
129. I therefore consider the signage to also be contrary to Policy Sign-P3 of the PDP.
130. In assessing the application in relation to these objectives and policies and assessment criteria I have consulted with the following experts within the Council:
  - Sarah Duffell, Senior Urban Design Advisor
  - Chessa Stevens, Heritage Consultant.
131. The proposal is generally not well aligned with the relevant District Plan objectives and policies when read as a whole. There are no directive policies that apply to the proposal such that the resource consent should be approved.
132. Overall, for the reasons discussed in this Decision Report, I consider that the proposal is unacceptable in terms of the assessment criteria and is not consistent with the objectives and policies as set out above.
133. As the conclusion reached under the operative District Plan is consistent with the conclusion reached under the PDP, an explanation relating to the weighting of the PDP is not necessary.

**Section 104(1)(c) - Other Matters:**

134. In accordance with section 104(1)(c) of the Act, here I will address various additional matters relevant to the application.

Heritage New Zealand Pouhere Tāonga:

135. The building is not included in the HNZPT Register of Historic Places, Historic Areas, Wahi Tapu and Wahi Tapu Areas.
136. There are no other matters that the Council needs to consider when assessing the application.

**ASSESSMENT UNDER PART 2 OF THE ACT**

137. Part 2 of the Act sets out the purpose and principles of the legislation, which as stated in section 5, is *"to promote the sustainable management of natural and physical*



*resources*". Section 5 goes on to state that sustainable management should enable "people and communities to provide for their social, economic and cultural wellbeing and for their health and safety whilst (amongst other things) avoiding, remedying or mitigating any adverse effects of activities on the environment".

138. In addition, Part 2 of the Act requires the Council to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).
139. For the reasons outlined in this report, I consider that consent should be declined when the proposal is assessed against the matters in section 104(1)(a) to 104(1)(c) of the Act. The planning and regulatory framework clearly indicates the outcome for this application. I have considered the purpose and principles in Part 2 of the Act and I do not consider that detailed evaluation of Part 2 matters is necessary and would add anything to my evaluative exercise.

## CONCLUSION

140. Having considered the application and supporting documents, together with the expert advice provided by various experts for the Council, I consider that the proposal to for a digital billboard on the site at 2 Jervois Quay, Wellington to be unacceptable.
141. I do not consider the proposal to have sufficient positive effects to counterbalance any adverse effects, and I consider the proposal to be contrary with the relevant objectives and policies of the District Plan and to not meet the intention of Part 2 of the Act.
142. I therefore conclude that, when the proposal is assessed against the matters in section 104(1)(a) to 104(1)(c) of the Act, the resource consent should be declined.
143. However, as also concluded by Ms Stevens in her expert evidence, if the applicant were to amend their application to simply include the time, temperature and a cut out building or company logo, smaller than the signage proposed and reflective of the previous signage that was on the site, I would come to a different conclusion.

## RECOMMENDATION

144. That the Hearings Commissioner, acting under delegated authority from the Council and pursuant to section 104C of the Resource Management Act 1991, **decline consent** for the proposal to construct signage (digital billboard) on the site at **2 Jervois Quay, Wellington** (being Lot 11 DP 11204).
145. If the Hearings Commissioner grants the consent, I recommend that it be subject to the conditions set out in **Appendix 6** of this report.
146. I note that my recommendation is based on the information provided to date. I reserve the right to reconsider this position, or any aspect thereof, should any new information or expert evidence eventuate prior to or at the hearing.

Reporting Officer:

Reviewed by:





**Elliott Thornton**  
Senior Consultant Planner  
On behalf of  
Wellington City Council

**Matthew Brajkovich**  
Senior Consents Planner  
Resource Consents Team  
Wellington City Council

## **APPENDICES**

- Appendix 1 – Applicant’s AEE and Technical Documents
- Appendix 2 – Submissions
- Appendix 3 – Notification Decision Report
- Appendix 4 – Urban Design Assessment
- Appendix 5 – Expert Heritage Assessment and Statement of Experience
- Appendix 6 – Proposed Conditions