

6<sup>th</sup> December 2022

**RESPONSE ITEM 2 OF MINUTE #3 – 2 JERVOIS QUAY, WELLINGTON CITY (SR513399)**

Please find in red response to the questions raised in Item 2 of Minute No. 3 dated 30<sup>th</sup> November 2022:

- (a) Given the building is a historic heritage item under the Proposed District Plan, does the proposed sign trigger any consent requirements under that Plan?

Yes.

Resource Consent would be triggered under the following rules of the Proposed District Plan:

Rule SIGN-R5 (Digital Signs) – Discretionary Activity

as the signage wouldn't meet the following standards of SIGN-S5:

- The sign must only be displayed on plain wall surfaces or fences;
- The sign must not project above the highest part of the building or structure

Rule SIGN-R6 (Signs on Heritage Buildings, Structures or on a site within a Heritage Area) – Restricted Discretionary Activity

as the signage wouldn't meet the following standards of SIGN-S12:

- The size of the sign does not exceed 0.5m<sup>2</sup>; and
- The sign display only the name or purpose of any activity undertaken on the site, or interpretive content about the values and history of the building.

Discretion is restricted to the matters in SIGN-P3, Signs Design Guide and Heritage Design Guide.

Rule SIGN-R6 has immediate legal effect.

- (b) Was the previous sign erected lawfully?

Yes.

Based on a review of Wellington City Council Archives:

21<sup>st</sup> August 1963 - consent was granted to Neon Lights of NZ Ltd, on behalf of Caltex Oil New Zealand Limited, for an illuminated sky sign which exceeded the maximum permissible dimensions provided in the City Bylaws on the roof of the Huddart Parker Building. The consented proposal comprised the erection of an animated sky sign incorporating the time and weather forecast, which are automatically controlled by an electric clock operator by the use of incandescent lamps, and an internal barometer. A copy of the approval is contained in **Attachment A**.

28<sup>th</sup> February 1995 – Certificate of Compliance issued for 'More FM' sign confirming that resource consent was not required as they considered the 'More FM' sign to be similar in character, intensity and scale as the existing 'AGC' sign. The file includes architectural images of both the 'AGC' sign and 'More FM' sign for context of what used to exist on the site. A copy of the images and Certificate of Compliance is contained in **Attachment B**.

- (c) Was there a District Plan in place at the time the sign was first erected? If so, was a consent required? (ties to question 1).

See response to item (b). It is not clear whether there was a District Plan in place in 1963, however the Council has confirmed that the MoreFM sign was 'permitted' and consent was not required for its establishment in 1995.

(d) Would the scaffold have existing use rights (ties to questions 1 and 2)

As the scaffolding was necessarily associated with the former signage, which both the applicant and I agree does not have existing use rights, I am of the opinion that it doesn't have existing use rights as it hasn't been used to support signage or anything else within the last 12 months.

(e) Would the reinstatement of the sign have been permitted, without a consent required (where existing use rights had been lost)?

No.

The applicant has advised that the signage was removed in 2012, and wasn't reinstated at the completion of those works.

The Wellington District Plan in place at the time the signage was removed did not permit signage on buildings above 18.6m (approx. 4 storeys), that exceed 15m<sup>2</sup>, that project above the parapet level, or bear anything other than the name and/or logo of the building, the owner or the occupier.

(f) How does this application differ to the consent granted for the digital billboards on The Embassy Theatre.

I was not the processing planner for the digital billboard on The Embassy Theatre, and may of come to a different conclusion had I been.

I do note however that Courtenay Place is a very different environment to that adjoining Post Office Square. Namely, I consider Courtenay Place to be an entertainment and commercialised environment, which is busy, with a range of activities and well lit at night. The surrounding environment is one of restaurants, night clubs, bars and strip clubs. This varies considerably to the environment near the Huddart Parker building which is typically quieter at night, not as busy or well lit and predominately commercial with some accommodation. It is also worth noting that the signage on the Embassy Theatre building differs from that of the Huddart Parker building in that it doesn't project above the parapet, and retains a sunset clause (8 years).

I refer to the Urban Design and Heritage Advisors for further comparison of the differences between the signage on the Embassy Theatre and the Huddart Parker building which is contained in **Attachment C**.

(g) How many other digital billboards are there on heritage buildings in the City?

Based on a very preliminary database search of Council's TeamWorks, 58 results were obtained with the search terms Central Area, Heritage and Signs.

This does not mean that all consents were approved, and some of the 58 may have been withdrawn or a change of conditions.

Some of these would have been within a Heritage Area, but not necessarily on a Heritage Building.

What this does suggest is that there is no blanket or fundamental objection to digital billboards on a Heritage Building or Heritage Area with each consent assessed on the individual merits of this site, the effects of the proposal and consistency with policy and planning framework, which is outlined in Council's section 42A report with respect to this particular proposal on this particular site.

(h) Is Change 1 to the Regional Policy Statement relevant to this application?

No.

None of the proposed changes to the Regional Policy Statement relate to signage.

As outlined on the Greater Wellington Regional Council website, Change 1 relates to:

- Urban development and infrastructure;
- Mana whanua partnership to protect waterways;
- Responding to the climate emergency;
- Strengthening existing provisions to protect indigenous ecosystems and restoration.

Elliott Thornton  
**SENIOR CONSULTANT PLANNER**  
BUrbEnvPlan, MNZPI

## Attachment C

### HERITAGE ADVICE ON MINUTE #3 – EMBASSY THEATRE COMPARISON

*(f) How does this application differ to the consent granted for the digital billboards on The Embassy Theatre?*

The application for the installation of three digital billboards on The Embassy Theatre (SR 470800) was subject to extensive discussion between the applicant and the council, and it was approved on 15 December 2020 with a series of strong conditions to mitigate adverse effect on the heritage values of the building and wider heritage area.

The resource consent holder objected to the conditions of the resource consent, with further discussion being held between parties, and final decision on the conditions being made by an Independent Hearing Panel on 28 April 2021 (SR 484562).

I was not involved in this process, but based on council's records, I understand that the Embassy Theatre application and the subject application have very few in common with the subject application. In particular, I have noted the following substantial differences in relation to heritage (but not exhaustive):

Embassy Theatre	Huddart Parker Building
Signs are fixed on the façade of the auditorium of the theatre (not the primary entry façade), which has a plain finish with concrete architectural frames as part of the building.	Sign will be fixed on a standalone structure, which is fixed on the rooftop of the building. The structure itself is 13.7m wide, 6.0m tall, and approximately 4.0m deep - drawings show some variations.
Signs are fixed on the façade of the Auditorium, which is setback approximately 8.0m from the decorative Kent Terrace street entry elevation.	Sign will be fixed on a structure that is setback approximately 1.0m from the parapet of the building (front and both sides) - drawings show some variations.
Signs have been redesigned during the process to better fit and visually integrate more with the architectural details of the building's façade, to some degree.	It is understood that the proposed sign may not obscure the architectural details of the building's façade, and it is simply because it will be located above the parapet level of the flat roof (although it is not clear if it will be visually detached or emerging behind the parapet).
Signage is symmetrical and respond to the symmetry and features of the building's design.	Sign will not relate to any of the heritage building's features.
The three signs are well detached from each other, and the two largest signs do not exceed 37.0m <sup>2</sup> each (10.5m wide and 3.5m tall).	Sign will be approximately 13.0m wide (although the structure seems to be much wider on the drawings) and 4.0m tall (52.0m <sup>2</sup> ).
A series of strong conditions (such as extended dwell time, 20% for local content, monitoring conditions, etc) have been considered to mitigate adverse effect on the heritage values of the building. It is interesting to note that the brightness of the signs appears to be more distracting than anticipated during the resource consent process, and that it may be reviewed, as provided for in the set of resource consent conditions.	As advised by Chessa Stevens: "there is no sufficient justification or mitigation for the negative effects that the proposed billboard will have on the building".
Signs are temporary and will not stay longer than eight years.	Permanent sign is proposed.
In this case, adverts' incomes have been considered by council to enable the restoration of the entry doors of the	Proposed maintenance fund generated by adverts' incomes will not be used to reinstate or restore any heritage items or

Embassy Theatre, and eight years have been considered an acceptable timeframe to achieve this heritage outcome.	values to the building (and this include the proposed “reinstatement” of the clock and forecast display). There is no provision in the district plan to support maintenance of heritage building through digital signs revenue.
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In regard with dwell time, I also appreciate that, when assessing the difference between a 10 and 60 second dwell time, the Hearing Independent Commissioner (Gina Sweetman) has considered that “a rate of six adverts per minute will detract from the heritage values of the building itself and the wider heritage area in which it is located, with the dwell time detracting from the appreciation of the building and wider area”. In my opinion, this statement made in April 2021 is still relevant in the heritage context of the subject application, and it is important, because a 8 second dwell time is proposed, which means the rotation of seven adverts per minute.

Section 6 (f) of the RMA, recognises and provides for “the protection of historic heritage from inappropriate subdivision, use, and development” as a matter of national importance, and the Wellington District Plans (Operative and Proposed) do not classify the scheduled buildings. Therefore, the fact that billboards have been accepted on the Embassy Theatre, which is listed as an Historic Place Category 1 with HNZPT, does not mean that a 100.0m<sup>2</sup> digital billboard can be put on the rooftop of a scheduled building that is not listed with them.

Adam Wilde’s evidence for the Hearing (22 November 2022)

2.6 I am aware of the April 2021 Independent Hearing Commissioner’s decision on an objection to conditions of consent concerning an application for the proposal for signage and additions and alterations to a listed heritage building, the Embassy Theatre, at 10 Kent Terrace and the subsequent Environment Court Mediation (to which I provided expert evidence). However, in the heritage context, such decisions do not establish an argument for precedent in my opinion and in the heritage context each instance must be assessed on its own merits.

Note: The Embassy Theatre

The Embassy Theatre is important on both a local and national level. It is listed in the Wellington Wellington City Heritage List (Heritage buildings - ID 172); it has a commending presence in the Courtenay Place streetscape and is a strong contributor to the Courtenay Place Heritage Area in the Wellington Wellington City Heritage List (Heritage Areas - ID 26); it is also identified as an Historic Place Category 1 in the New Zealand Heritage List/Rārangi Kōrero.

The Inventory Report says: *The Embassy Theatre is scheduled in has significant heritage value. As a purpose built cinema of the 1920s it is one of the few large-screen venues to have remained in near-constant use since its construction. It is an important landmark for Wellington, and it is one of the key heritage buildings in the Courtenay Place Heritage area, meaning it has high townscape and contextual values as well.*