

**Council's Officer's section 42a report for resource consent application RM220088
at 47 The Esplanade, Petone**

Address: 47 The Esplanade, Petone

Applicant: Seaview HP Limited

Proposal: Construction of a new Digital Billboard at 47 The Esplanade, Petone.

1 Elliott Thornton states

- 1.1 I am a Principal Planner at Cuttriss Consultants, contracted by Hutt City Council (the Council) as the processing officer this resource consent. My qualifications include a Bachelor of Urban and Environmental Planning from Griffith University (Australia). I am a full member of the New Zealand Planning Institute, and certified Independent Hearings Commission having completed the Making Good Decisions Making course.
- 1.2 I have over 20 years practical planning experience across private and public sectors in Australia and New Zealand, including over 7 years planning experience in New Zealand, with over 3 years processing experience with the Wellington City Council, 1 year at the Environmental Protection Authority, and 3 years as a private planning consultant at Cuttriss Consultants Ltd. In Australia I held various roles at Brisbane City Council as a processing planner, and consultant planner, and Planvista as a consultant planner.
- 1.3 I have extensive experience in billboard related resource consents, most of which were on behalf of Wellington City Council including:
 - SR511424 – 13 Jean Batten Street, Rongotai - granted;
 - SR406457 – 85 Ghuznee Street, Te Aro - granted;
 - SR443469 – 42 Victoria Street, Wellington City - granted;
 - SR407591 – 40 Taranaki Street, Te Aro (s127) – declined;
 - SR457045 – 673 Hutt Road, Horokiwi (State Highway 2) – declined;
 - SR513399 – 2 Jervois Quay, Wellington City – declined.
- 1.4 I also acted as an expert witness on behalf of Waka Kotahi New Zealand Transport Agency (NZTA) for SR500804 – 251 Victoria Street, Te Aro. This consent was granted following an amendment by the applicant during the hearing to change the dwell time from 8 seconds to 120 seconds.

- 1.5 My involvement with this application started in May 2022, as supervisor to Oliver Clausen of Cuttriss Consultants Ltd who was processing the resource consent under contract to Hutt City Council. I have since taken over the processing of the resource consent as Mr Clausen is no longer employed by Cuttriss.
- 1.6 I have visited the site both during the day and evening and am familiar with the surrounding area.
- 1.7 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.

2 Summary of the proposal

- 2.1 Land use consent was originally sought to erect a new V-shaped, doubled sided portrait sign along the road boundary at No. 47 The Esplanade, Petone. The proposed sign is in the form of a digital billboard with the maximum dimensions of 9.5m x 3.5m in portrait. This comprises of a single column pole of 2.5m which contains a 7m digital screen face.
- 2.2 In response to discussions between parties, the applicant amended the design to be a maximum height of 9.1m with a dimension of 7m x 3.5m, on a single column pole that is 1.8m from the ground to the lower edge of the signage face (see Figure 1 below).
- 2.3 They also included the option of a horizontal sign with similar dimensions but in landscape. The landscape sign will have a maximum dimension of 9m x 3m in landscape. This comprises of single column pole of 4.7m which contains a 3m digital screen face above that (see Figure 2 below).
- 2.4 In addition to the pole and digital screen face, both options include a non-digital, 0.5m 'Mediaworks' logo will be situated below the digital screen face. This sign includes 150mm of framing around the face of the sign, and a 800 x 600 x 975mm power unit which will be located on the ground.
- 2.5 The billboard will be used for third-party advertising that will change on a rotating basis in which each image will be displayed for a minimum of 8 seconds, with a 0.5 second cross fade between images. It is not yet known how many displays will be shown per day. Illumination levels will be managed automatically to be responsive to natural changes in ambient lighting with maximum levels not exceeding more than 5,000 cd/m²¹ during daylight hours and 250 cd/m² during twilight and night-time hours.

¹ cd/m² or a candela per square metre is an SI-derived unit of luminance used to calculate the light emitted by a source in a particular direction. The International System of Units established the candela in 1948 to ensure that light was measured by the same units worldwide. Essentially at 5,000 cd/m² is equivalent to a Samsung Ultra High Brightness computer monitor or TV.

2.6 It is noted that the application was originally submitted on behalf of MediaWorks (as the applicant), however on 16th April 2024, Council received notification that the applicant's name was to be changed to Seaview HP Ltd. This is simply stated for clarity.



Figure 1 - Imagery of Proposed Portrait Billboard (source: applicant plans received 19th October 2023)



Figure 2 - Imagery of Proposed Landscape Billboard (source: applicant plans received 19th October 2023)

3 The site and locality

- 3.1 The applicant provided the following site description which I adopt:

“The site is located approximately 90m north of Petone Beach and 300m south of State Highway 2.

The site is generally flat across it's 22,748m² site area and is currently characterised by various commercial and office buildings including Bunnings, Wet & Forget, AWF and Spotlight Reporting. The site is subject to the 1% annual exceedance probability (AEP) flood hazard covering approximately 50% of the southern section of the site.

The site has four total vehicle crossings gaining access to different units on site from The Esplanade, Nevis Street and Hutt Road. The general area contains various commercial lots with multiple on-premises signs in relation to the business, however there are no other billboards in the proximity.

To the north of the site lies State Highway 2, to the south lies Petone Beach. To the east is the town centre of Petone and to the west State Highway 2 continues towards Wellington CBD. The buildings within the immediate area are largely commercial units containing businesses similar in use and trade as Bunnings Warehouse. The wider surrounding area is characterised by both further commercially zoned sites, general recreation to the north and residential to the east’

- 3.2 It is noted that a resource consent for a digital billboard has since been granted at 4 Hutt Road, Petone. This was a non-notified consent and related to the conversion of an existing static image billboard to that of a digital format. This was granted under RM240019 and reference should be made to that consent decision for details. I note that this billboard does not directly front The Esplanade, and therefore subject to very different environment, standards and terms, and zoning requirements.
- 3.3 The site location is shown in Figure 3 below.



Figure 3 - The Site (source: www.grip.co.nz accessed 1st August 2023)

4 Consents sought

4.1 The City of Lower Hutt District Plan (the District Plan) is the appropriate planning instrument with which to assess the proposal. The application site is in the Petone Commercial – Area 2 Activity Area and is subject to the following notations as also shown in Figure 4 below:

- Coastal Hazard Overlay – Tsunami
 - o High Coastal Hazard Area
 - o Medium Coastal Hazard Area
 - o Low Coastal Hazard Area
- Coastal Hazard Overlay – Inundation
 - o Medium Coastal Hazard Area
- Flood Hazard Overlay
 - o Flood Inundation Area
- Railway Corridor Buffer Overlay

4.2 None of these notations affect the consents sought.

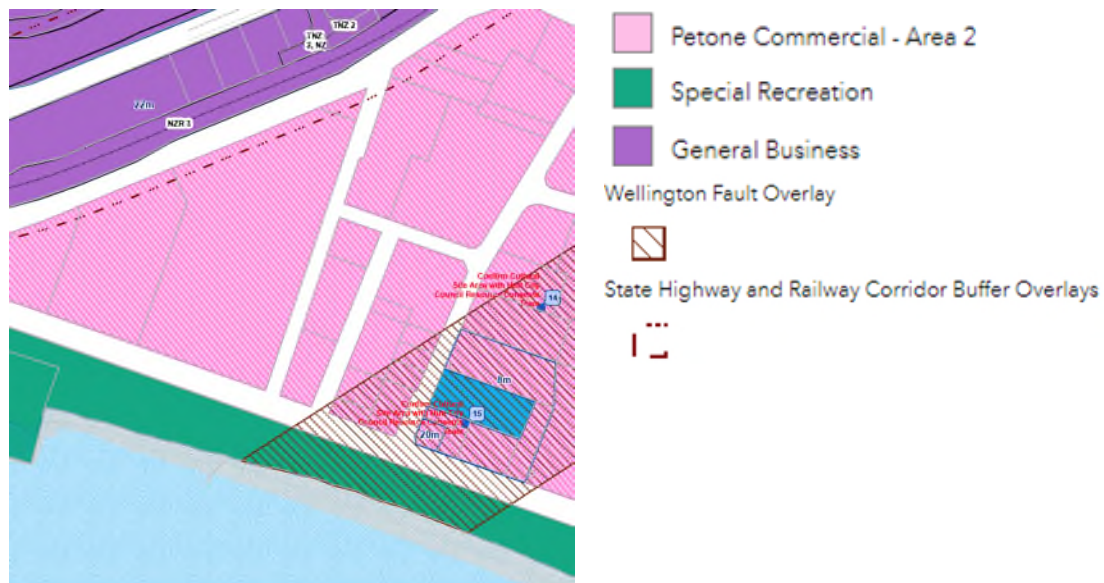


Figure 4 – District Plan Zoning and Notations (excluding natural hazard notations) accessed 15/05/2024

4.3 The activity is a ‘Sign’ as defined under Chapter 3 of the District Plan as:

Any word, letter, model, sign, banner, placard, board, hoarding, billboard, poster, symbol, emblem, notice, name, image, character, outline, spectacle, display, delineation, announcement, device of representation, or any other means of similar advertising nature intended to principally attract attention whether a specifically constructed device, structure or apparatus, whether painted, printed, written, carved, inscribed, endorsed or projected onto a place or otherwise fixed or attached to any wall, roof, fence, rock, strong, structure, canvas or stationary vehicle.

4.4 Of specific note under the Chapter 3 definition of a ‘Sign’ in relation to this application are also:

- *Onsite Sign – A sign which is located on the site to which it relates.*
- *Offsite Sign – A sign which advertises products, goods or services not available on the site to which the sign relates.*

4.5 A third-party advertising billboard would be considered an ‘Offsite Sign’ as per this above definition.

4.6 With regards to the Chapter 3 definition of a ‘Sign’ it also defines:

- *Face Area – the total area of a sign facing any one direction.*

4.7 For the purposes of interpreting the relevant rules, standard and conditions, I have considered the ‘Face Area’ to only be the total area of the sign facing in a single direction (e.g. either east or west), rather than both.

4.8 It should also be noted that the definition of a 'Structure' under Chapter 3 explicitly excludes:

- *All signs, as defined by this Plan.*

4.9 There are no specific rules listed in Chapter 5B 2.2 – relating to the Petone Commercial Activity Area 2 in terms of signage, however General Rules in Chapter 14 are applicable.

4.10 The proposal requires resource consent as signs in all Commercial Activity Areas that are erected on site with a frontage to The Esplanade are a Controlled Activity subject to Rule 14B 2.2 when they also meet all the permitted activity conditions under Rule 14B 2.1.5.

4.11 The proposal does not meet the following permitted activity conditions under Rule 14B 2.1.5:

- 14B 2.1.5(b) – Maximum height

Both the portrait and landscape sign options exceed the permitted height of 8m (portrait 9.1m, landscape 8.0m).

- 14B 2.1.5(c) – Maximum Face Area

Both signage options have a face exceeding 20m²

(portrait 24.5m² per face, landscape 27m² per face) both areas exclude the Mediaworks logo and framing of 150mm (refer to 4.6 above for definition of face area).

- 14B 2.1.5(d) – Illumination

The lighting source of the signage will not be constant, as it will change depending on the nature of the image being portrayed (i.e. when the image contains black, it will not appear as bright), and will alter between day and night.

4.12 As the proposal doesn't meet the permitted activity standards under Rule 14B 2.1.5, the proposal needs to be assessed as a **Discretionary Activity** under Rule 14B 2.4(a)(i).

4.13 There are no National Environment Standards relevant to this proposal.

4.14 There is no permitted baseline applicable to the site, as all signs on a site with a frontage to The Esplanade require resource consent at least as a Controlled Activity as stated in 4.10 above. A permitted baseline does not and cannot be applied to an activity that is a Controlled Activity.

4.15 It is noted that while a range of activities can be accommodated within existing buildings within the Petone Commercial Activity Area 2, no new buildings are permitted, and alterations and additions are only permitted where less than 5% of the existing buildings gross floor area, do not exceed 22m and does not change the external building form.

5 Consideration under the Resource Management Act 1991

- 5.1 As a Discretionary Activity the application must be assessed in accordance with the provisions of sections 104 and 104B of the Resource Management Act 1991 (the Act).
- 5.2 In considering the matters under section 104, this includes:
- (1)(a) Any actual and potential effects on the environment of allowing the activity; and*
 - (1)(ab) Any measure proposed or agreed to by the applicant for the purposes of ensuring 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; and*
 - (1)(b) The relevant provisions of –*
 - (i) A National Environment 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; and*
 - (1)(c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
 - (2) In forming an opinion for the purposes of section 104(1)(a), a consent authority may disregard an effect of the activity on the environment if a National Environment Standard or the Plan permits an activity with that effect.*
- 5.3 As noted in 4.10 and 4.14 above, signage in this location is not permitted and therefore sub-section (2) does not apply.
- 5.4 Sub-sections (2A) – (7) are also not applicable.
- 5.5 For the purposes of considering the above matters, it is noted that none of the matters listed under section 104(1) is elevated to a primary status, and the matters can be given weight as the consent authority sees fit.
- 5.6 For the purposes of section 104(1)(b)(iii) I consider that the National Policy Statement for Urban Development (NPS-UD) may be applicable.
- 5.7 For the purposes of section 104(1)(b)(iv) I consider the New Zealand Coastal Policy Statement 2010 (NZCPS) to be applicable, noting that while the District Plan does not define the extent of the coastal environment, a report prepared for the Council by [Boffa](#)

[Miskell dated 2016](#)² defines the Coastal Environment as extending inland to approximately Jackson Street, which is reflected in the non-statutory [Draft District Plan Review mapping](#).

- 5.8 For the purposes of section 104(1)(b)(v), the relevant document is the Operative Regional Policy Statement for the Wellington Region 2013, last updated 15 December 2023 to update housing bottom lines. The Greater Wellington Regional Council also notified Plan Change 1 of the Regional Policy Statement in August 2022.
- 5.9 For the purposes of section 104(1)(vi), the relevant document is the City of Lower Hutt District Plan revision 24 April 2024. There is no Proposed Plan relevant, although it is noted in 5.7 the Council intends to notify a full plan review later in 2024, and has issued a Draft for consultation purposes, however I would consider that this has limited weighting given its infancy in terms of the Schedule 1 process but could be considered as an 'other matter' under section 104(1)(c) of the Act.

6 Notification and Submissions

- 6.1 The application was publicly notified in accordance with sections 95-95F of the Act with submissions originally closing on 12th October 2023, at the applicant's request received 26 July 2023 and invoice paid 28th August 2023. All owners and occupants of land in the immediate area were served a copy of the application including signage erected on-site and the adjacent reserve in addition to invitation for submissions placed within the Hutt News newspaper, and establishment of public documents on [Council's Have your Say website](#).
- 6.2 On review of the submission on behalf of the Wellington Tenth Trust, it was identified that not all relevant iwi authorities had been notified, and therefore with the agreement of the applicant, the notification period was extended under section 37 of the Act, until 20th December 2023 and Te Ātiawa (via email info@hmr.nz) was served notice, and invited to response by 20th December 2023. No response was received.
- 6.3 At the close of the submission period, a total of sixty-two (62) submissions were received by Council, one (1) neutral, two (2) in support and fifty-nine (59) in opposition to the application; of these submissions seventeen (17) wished to be heard. A summary of the submissions is provided below.

² [8674d24427254d7f40b7a260ec7dfb28beb2 \(hccpublicdocs.azurewebsites.net\)](https://8674d24427254d7f40b7a260ec7dfb28beb2.hccpublicdocs.azurewebsites.net/)

Submitter	Support / Oppose	Wish to be heard?
Shayne Hodge – L5 354 Lambton Quay, Wellington City	Support	Yes
Deborah Makarios – 28 Durham Crescent, Fairfield	Oppose	No
Bruce McCardle (Wet and Forget) – 47 The Esplanade, Petone	Support	No
Merran Bakker – 57 Britannia Street, Petone	Oppose	Yes
Christopher Chapel – 215 Wellington Road, Wainuiomata	Oppose	No
Murray Ellis – 10 Faulke Avenue, Wainuiomata	Oppose	No
Patrick Morgan (Cycling Action Network) – 2 Forresters Lane, Te Aro	Oppose	Yes
Maree Turner – 3 Taungata Road, York Bay	Oppose	No
John Marwick – 12 Konini Street, Eastbourne	Oppose	No
Carol Lough – 1 Taungata Road, York Bay	Oppose	No
Debby McColl – 9 Howard Road, Point Howard / Eastbourne	Oppose	No
Rosemary Waters – 351 Muritai Road, Eastbourne	Oppose	No
Francis Rory Murray – 171 The Esplanade, Petone	Oppose	No
Antonia Haythornthwaite – 65 Wyndrum Avenue, Waterloo	Oppose	No
Barbara Scott – 114 Richmond Street, Petone	Oppose	No
Murray James Chisholm – 18 Riddlers Crescent, Petone	Oppose	No
Pam Hanna – 5 Beach Street, Petone	Oppose	Yes
Leon Craze – 51 Riverside Drive, Waiwhetu	Oppose	No
Marion Townsend – 20 Hanworth Road, Appleby / Richmond	Oppose	No
David Tripp (Hutt Cycle Network) – 3 High Street, Petone	Oppose	Yes
Matthew Morris – 25 Buick Street, Petone	Support	Yes
Richard McCormack – 13 Richmond Street, Petone	Oppose	No
Toby Gillacks – 20 Queen Charlotte Drive, Aotea	Oppose	No
Hawera Beattie (JJ Beattie Contracting Ltd) – 46 Conclusion Street, Ascot Park	Oppose	No
Daniel Te Maro – 14 Croft Grove, Moera	Oppose	No
Allen Edwardson – 5 Tyrone Grove, Wainuiomata	Oppose	No
Jess Beattie (JJ Beattie Contracting) – 46 Conclusion Street, Ascot Park	Oppose	Yes
Nathan Heta (TG Civil) – 44 Gear Terrace, Ranui	Oppose	No
Tracey Buick – 45 Holborne Drive, Stokes Valley	Oppose	Yes
Angela Rapata – 9 Tiroiti Grove, Stokes Valley	Oppose	No
Virginia Wright – 37 Poole Crescent, Wainuiomata	Oppose	No

Amy Berthold-McKeagg – 17 Ferry Road, Days Bay	Oppose	No
Annie Scott – 8 Adelaide Street, Petone	Oppose	Yes
Rex Widerstrom – 17 Wellington Road, Wainuiomata	Oppose	No
Friends of Petone Beach (Graeme Lester Lyon) – 117 The Esplanade, Petone	Oppose	Yes
Frank Vickers – 153 Marine Parade, Eastbourne	Oppose	No
Bruce Spedding – 13 Konini Street, Eastbourne	Oppose	No
AWF	Neutral	No
Peter Wood – Gordon Street, Avalon	Oppose	No
Laura Skilton – 27 Bay Street, Petone	Oppose	Yes
Andrea Bolton – 20 Graham Street, Petone	Oppose	No
Brian Boyer – 12 Buick Street, Petone	Oppose	Yes
Petone Community Board (Mike Fisher) – 26 South Street, Petone	Oppose	Yes
Kate Males – 8 Lathan Road, York Bay	Oppose	No
Jennifer Lynne Stacey – 2/30 St Ronans Avenue, Waterloo	Oppose	Yes
Hutt City Grey Power Association Inc – 301 Normandale Road, Lower Hutt	Oppose	Yes
Christine Phyllis Whittaker – 324 Waiwhetu Road, Fairfield	Oppose	No
Nicolle O'Neill – 456 Muritai Road, Eastbourne	Oppose	No
Lynda Diana Stevens – 169 The Esplanade, Petone	Oppose	No
Hikoikoi Management Ltd (Wellington Tenths Trust)	Oppose	Yes
Roger Thackery – 12 Adelaide Street, Petone	Oppose	Yes
Linda Reid – 10 Guinness Street, Avalon	Oppose	No

6.4 All notification matters and associated tests under the RMA (under Sec 95A to 95E of the RMA) were addressed in the Notification Report (see Appendix G of this report).

6.5 While submissions are made available with this report, the key themes raised across the submissions are summarised below:

- a) Traffic Safety: Potential distraction to drivers and cyclists from lights and changing images, which could lead to safety hazards. A number of submitters claimed that the traffic environment is complex and cited a recent crash incident.
- b) Aesthetic Considerations: Numerous mentions of the billboard being unattractive, visually dominant, or clashing with the surrounding environment.
- c) Light Pollution: Billboard adds to light pollution, detracting from both the daytime and the nighttime environment. Comments in this matter varied from concerns in the immediate view, but also from further afar including Eastbourne and as viewed from Wellington

Harbour. One submitter noted how visible the existing digital billboards along the Wellington City foreshore such as the one nearby the Wellington Stadium was from a distance.

- d) Bulk and Dominance: Concerns about the size and scale of the digital billboard in the context of the existing environment including not being at a pedestrian scale or similar scale to trees.
 - e) Natural Character: Concerns about the billboard's impact on the natural beauty and coastal character of the area, particularly as viewed from Petone Beach and The Esplanade.
 - f) Urban Character: Concerns about the billboard's effects on the urban character of the area including as a 'gateway' to Lower Hutt and Petone more specifically. Many of the submitters raised specific concerns that the signage would display third party advertising, not associated with the businesses on-site. One submitter was particularly concerned that it would not enable or discourage a transition to more compatible residential activities.
 - g) Precedence: Multiple mentions of concerns about setting a precedent for similar digital billboards or proliferation of signage and the resulting cumulative effects on the area's visual landscape.
 - h) Lack of Reasons Given or Community Benefit: Criticisms about insufficient justification or 'need' for a digital billboard. Many submitters question or refute claims of any positive financial, social, environmental, or economic benefits to the community.
 - i) Commercial and Consumerism Concerns: Criticisms regarding the promotion of consumerism and the impact on climate change.
- 6.6 For the full set of submissions received by the Council, please refer to **Appendix H** of this report.

7 Pre-hearing meetings

- 7.1 At the applicant's request, two meetings were held with the applicant on the 3rd April 2023 and 27th April 2023 respectively.
- 7.2 The matters discussed included the relevance was the effects on the 'natural character' of the Petone Foreshore and effects on 'urban character' noting The Esplanade as a 'gateway' to Petone and Lower Hutt. It was requested that the signage be switched-off at night to address some Council's concerns. The applicant advised that would make the proposal uneconomical.

7.3 Following these meetings, the applicant confirmed their desire to formally request the application be publicly notified on the 26th of July 2023.

7.4 No pre-hearing meetings have been held following notification.

8 Section 104(1)(a) – Effects Assessment:

8.1 An assessment of actual and potential adverse effects on the environment under section 104(1)(a) of the Act, including the issues/matters raised by submitters, are summarised within the assessment below.

8.2 Based on the application documents and supporting assessments, site inspections, and information contained in the submissions, the actual and potential effects of the proposal that require consideration relate to:

- Transport Effects
- Urban Character Effects
- Natural Character Effects
- Cultural Effects
- Other Adverse Effects

Permitted Baseline

8.3 As noted above, it is my opinion that there is no permitted baseline applicable to the site.

8.4 Therefore, there is no permitted baseline that under section 104(2) of the Act, can be disregarded when forming an opinion on potential and actual adverse effects for the purposes of subsection 1(a).

Transport Effects

8.5 It is noted that the applicant's traffic expert, Mr. Harries of Harries Transportation Engineers (formally Stantec), considers the proposal with an 8 second dwell time is appropriate and acceptable, and supported by the safe operation of many digital billboards throughout New Zealand with a similar dwell time.

8.6 Council originally contracted Mr. David Wanty, of Wanty Transportation Consultancy Ltd, to review the proposal with respect to traffic and safety effects. Mr. Wanty maintained a similar view to that of Mr. Harries' on review of the relevant literature, however Mr Wanty advised that the billboard with a 20 second dwell time is considered reasonable to maintain road safety based on his review or the guidance available. A copy of his initial assessment is attached in Appendix I.

- 8.7 It is noted that following notification, Mr. Wanty signalled that he would not be available for the hearing due to his personal situation and that he would be unavailable for further proceedings in terms of this application. In turn, Council has engaged Mr. Luke Benner, of Luke Benner Consulting Ltd to provide expert advice on the matter. Mr. Benner has reviewed Mr. Wanty's advice and holds a similar view to Mr. Harries in he considers there not to be any expected negative implications on road safety because of the digital billboard gaining consent with the severity of a crash likely to be low where serious injuries or worse are very unlikely.
- 8.8 He confirms that an 8 second minimum dwell time is unlikely to cause a degradation of road safety performance, however recommends a more conservative approach of 30 seconds to further de-risk road user distraction from occurring.
- 8.9 His rationale is that this reduces significantly the number of passing motorists who would see the image change, which reduces further the distraction resulting from the change.
- 8.10 I note that despite the expert traffic evidence, a large number of submitters have raised concern regarding the potential for third party advertising billboard to cause distraction resulting in an accident to either vehicles, cyclists or pedestrians.
- 8.11 As noted by Mr. Harries, this appears to be based on 'perception alone' rather than any empirical evidence.
- 8.12 Based on my experience with hearings on other digital billboards, I am aware that the lack of any empirical evidence may be attributed to the practice of drivers not admitting fault for insurance purposes, or lack of sufficient time to research the effects of digital advertising on driver distraction. It is noted that one of the submitters referred to a decision to turn-off all digital billboard on a Perth Motorway by the relevant Western Australian Minister, suggesting that other authorities have grounds to be concerned with effects of digital billboards.³ However, it would be difficult to draw conclusions in my view from Western Australia, particularly as the road environment is likely to be vastly different.
- 8.13 I note that that by design, third party advertising is intended to convey a message (usually commercial in nature) and that may cause a momentary distraction to both 'glance' and then 'interpret' the contents of that message, which could cause a temporary distraction.
- 8.14 However, I concur with the statement of Mr Harries in that it appears that there is a significant lack of evidence to suggest digital billboards are directly attributed to an increased instance of vehicle accidents.
- 8.15 The above matters were duly considered in the [2022 NZEnvC \[125\] Prime Property Group Limited vs Wellington City Council](#) Environment Court decision which many of the

³ <https://www.abc.net.au/news/2023-03-10/minister-quashes-perth-freeway-electronic-billboards/102081558>

submitters referred to. As the processing planner for that resource consent, I am very familiar with the subject matter and case, and I do not consider that case to be fully relevant to the application under consideration here.

- 8.16 Of similarity with this application, it was confirmed that there was inconclusive evidence to suggest that the billboard would cause an adverse effect in terms of traffic safety, however there was also no evidence to suggest it would not.
- 8.17 However, there was substantial evidence that the stretch of State Highway 2 adjacent to the billboard was prone to a high crash rate, including the recent death of a cyclist, and that the roading environment at that location was complex. Further, the consequence of an accident at 100 km/hr was more likely to result in serious injury or death, along with adverse effects resulting from property damage and highway closure.
- 8.18 Given the nature of the roading environment, in that instance, it was appropriate to apply a precautionary approach, noting that the meaning of effect under section 3 of the Act includes not just the probability which as noted by Mr Harries and others would likely be low based on the evidence, but one which has a high potential impact which in that instance would be severe injury, death and closure of a significant State Highway.
- 8.19 The roading environment at The Esplanade varies significantly from State Highway 2, and in this instance based on the evidence and advice of Mr Harries, Mr. Wanty and Mr. Benner, is both low probability and low potential impact.
- 8.20 Therefore, as the balance of expert advice received on the matter is supportive from a traffic effects perspective with a 30 second dwell time recommended, there are not sufficient grounds to disagree with their conclusions and I therefore consider the effects on traffic and pedestrian safety to be acceptable.

Urban Character and Amenity

- 8.21 Alastair Upton, an Urban Designer formerly of Stellar Projects, carried out an initial review of the application and the 3D perspectives provided. He prepared an Urban Design Assessment prior to notification which is held on file and should be read in conjunction with this report. A copy is available in Appendix K.
- 8.22 Stellar Projects have since closed their Wellington office, and therefore are no longer engaged on this project by Hutt City Council. As such, Mr. Coolen, an Associated Principal Urban Designer of Boffa Miskell's has prepared evidence should also be read in conjunction with this report.
- 8.23 Both Mr. Upton and Mr. Coolen carried out assessments and concluded that the proposed signage would be out of character with the signage found within the area and further along The Esplanade.

- 8.24 In particular, Mr. Coolen concluded that the proposed digital billboard would be of a different size, scale, shape and appearance, largely by the nature of lighting emitting from within, to those currently existing.
- 8.25 He notes that the nature of signage nearby is largely static (i.e. not changing), and typically for wayfinding and identification of a nearby business.
- 8.26 Mr. Coolen is of the view that the proposed signage would add to a proliferation of signage and visual clutter.
- 8.27 He also notes that by introducing a new billboard with an internally emitting light source, this will change the night-time character of the area and will interrupt the experience of travelling along The Esplanade during hours of darkness. By design it will be a beacon or local landmark, which in his opinion is out of character.
- 8.28 Having visited the site both during the day and evening, I agree with his conclusions.
- 8.29 As a Wellington local, I am familiar with how visible several digital billboards can be both at proximity and further afar. I specially note that from Petone foreshore the digital billboards near the Wellington Stadium are highly visible. While I can't read the content, I can see a change in colour that is distinctive in the landscape. I found this to be most prominent at dusk.
- 8.30 I am also acutely aware that this is more prominent due to the changing nature of digital billboards which not only have a more uniform and visible light source as they are light from within (i.e. light emitting outwards) rather reflecting from the surface, but also by their nature of changing imaging, whereby the resulting change of colour or image can be noticeable as a change to the visual landscape which draws the eye.
- 8.31 The billboard technology can also be more noticeable than static signage with alternative lighting sources resulting in images that are more contrasting, vibrant and immersive than indirect light often resulting in more colourful and noticeable imagery as the light is less scattered.
- 8.32 I am also familiar with the nature and character of the Petone foreshore, which during the day caters to a range of businesses, most of which would be associated with local trades and services, and at night the vast majority are not open resulting in a rather absent commercial character, and during these times I consider the characteristics of the foreshore then dominate.
- 8.33 I therefore share the view that the billboard will act as a dominating feature and landmark on the landscape which is not akin to the urban character of Petone which I consider to be distinct from Wellington City and other commercial areas. For example, Wellington City has a strong nighttime character associated with the waterfront and Courtenay Place, which is commercial in nature and with high levels of lighting and nighttime activity from

local hospitality, bars, and restaurants. Conversely, The Esplanade is predominately a throughfare at night with limited or no night-time businesses operating. The nature of the businesses is typically associated with trades or similar services, and there are no obvious evening activities or commercial activities occurring.

- 8.34 I note that the assessment by Mr. Knott differs, in that he considers the sign will have minimum effects on visual amenity, character or quality of the environment. He also considers it will appear as an integrated part of the area.
- 8.35 Based on the evidence of Mr. Upton, Mr. Coolen and my own experience with digital billboards and knowledge of the area as outlined above, I prefer the advice of Mr. Upton and Mr. Coolen over Mr. Knott.
- 8.36 I have also considered the experiences of the many local Hutt City residents who have submitted on the proposal, many of whom are residents in Petone, Eastbourne and the surrounds. Many of these submitters have expressed a view that in their opinion the digital signage will result in a dominating feature within the area and not suitable as a gateway to Lower Hutt or Petone. Further, they have expressed their own experiences with digital billboards in Wellington and elsewhere, particularly noting the commercial element to change images, visibility and displaying third party advertising as distinct from the signage that is currently existing being predominately to identify a business or wayfinding.
- 8.37 I therefore consider the urban character and amenity effects to be unacceptable, particularly at night.

Natural Character and Amenity (including Visual Effects)

- 8.38 Emma McRae, a Principal Landscape Architect at Boffa Miskell Ltd has prepared expert evidence in relation to landscape and visual effects, namely in relation to natural character and amenity. Her evidence should be read in conjunction with this report. Mr. Upton's assessment and Mr. Coolen's evidence also touches on the visual effects on natural character and amenity.
- 8.39 She notes that The Esplanade is at the edge of Hutt City and is part of the city's connection with the harbour, which is one of the regions most significant natural feature. She also notes that on one side, The Esplanade is a building dominated townscape, and on the other, an open and panoramic seascape.
- 8.40 Ms McRae described the values of the coastal environment, both in terms of natural character, but also, it's values for recreational purposes. This reflects the values that are described in several of the submissions, many of whom raise concerns with the effect that the digital billboard will have on the Petone foreshore and coastal environment. She also notes various studies that have describes the value of the Petone coastal environment.

- 8.41 Ms McRae has confirmed that the site is within the coastal environment identified in the District Plan. I note that I don't believe it is specifically mapped in the operative District Plan, however it is mapped in the Draft District Plan as extending to Jackson Street and is described in Chapter 1 relating to the Petone Commercial Activity Area that... *The character and amenity values of the Petone Commercial Activity Area are influenced by the open nature of sites, a diversity of building scale, the coastal environment for those sites fronting The Esplanade, and mixed land uses.* Therefore, I am satisfied that the site is described in the District Plan as being within the coastal environment.
- 8.42 Ms McRae described the degree of natural character for the Petone foreshore as low-moderate, noting the beach does retain natural character values, with most of the area being highly modified.
- 8.43 Her assessment includes consideration of both daytime, and nighttime and she has attached a number of visuals to accompany her evidence.
- 8.44 Her consideration of the existing environment is like that referenced by Mr. Coolen noting that while there are a number of signs in the vicinity, they are mostly smaller in scale, associated with the use of the building nearby, are static, and have a different method of lighting to the proposed digital sign.
- 8.45 I note that Ms McRae has questioned the qualifications of Mr. Knott in carrying out a visual assessment. While I agree that Landscape Architects are suitably qualified with specialist understanding and carrying out a visual effects assessment of the environment, I also consider that planners with sufficient experience can also be suitably qualified as they typically have a good understanding of environmental values, spatial design, and landscapes.
- 8.46 However, I also acknowledge that the New Zealand Institute of Landscape Architecture (NZILA) has carried out specific guidance on visual effects and therefore, on balance I would tend to lean towards the specialist guidance of an experienced Landscape Architect who has specialised in visual assessment in most instances and therefore prefer the advice of Ms McRae on the matter.
- 8.47 Ms McRae disagrees with Mr. Knott that the billboard will appear as an integrated element in the environment. The reasons are the size, scale and nature of lighting and change in imagery. I concur with this state based on my own experiences with billboards in the environment.
- 8.48 Ms McRae considers that the billboard will be visible and experienced by many, but most noticeable by walkers and pedestrians in the immediate vicinity, due to the slower nature of their movement. She observed the immediate area as being used by walkers during her site inspection.

- 8.49 I have also observed that the Petone foreshore and surrounds is a popular destination for recreational users, both during the day, and at night. There have been a number of occasions where I have walked along the foreshore at night, and observed many walkers with their dogs, friends, family and solo on along the foreshore. I consider it to be particularly popular in the earlier evenings.
- 8.50 Ms McRae using Mr. Knotts own seven-point scale, considers the effect on walkers to be high, as a noticeable change to the existing character. She is of the view that the sign will appear as a new, and uncharacteristic feature in this location. I concur with this statement.
- 8.51 Ms McRae concludes that in her opinion, the billboard will have moderate adverse effects on the experiential natural character values, but not significant.
- 8.52 She concludes however, having taking context of the relevant policy framework (discussed below), and the submissions received, that she considers the sign to be an inappropriate intrusion into the environment. She considers the Petone foreshore to be a highly valued natural environment, which is used for recreation, and with important cultural values, reinforced by the policy framework and submission received.
- 8.53 She considers that the sign will degrade the character and amenity values of the Petone Mixed Use Area, and detract from the character of the Petone foreshore.
- 8.54 Based on my own experience and understanding of the signage, location and values attributed to the Petone foreshore, I concur with the views of Ms McRae and consider the effects on the natural character and amenity to be unacceptable.

Cultural Effects

- 8.55 Ms McRae in her expert evidence, also considered the submissions relating to cultural landscape effects. She notes that four submitters identified Pito-one as an area with significant cultural values, notable as the site of Pito-one Pā.
- 8.56 This is most specifically noted in the submission by Hikoikoi Management on behalf of Wellington Tenth Trust, which identifies the historical and cultural significance of the area and concludes that *“Allowing the construction of the proposed sign would further contribute to the loss of Mana Whenua of our sense of place in Pito-one”*.
- 8.57 Ms McRae notes that while almost all features of cultural significance have been lost, recent developments are attempting to acknowledge and improve the cultural values and amenity of the area as a gateway to the city.
- 8.58 I note having read the submission on behalf of Wellington Tenth Trusts, that they have detailed a long history and association with the Petone foreshore and are of the view that

the signage would have a considerably more than minor visual effect that they consider is out of context and inappropriate for the area.

8.59 With regards to the cultural values attributed to the Petone foreshore, I also note that:

- The adjacent Wellington Harbour is a Statutory Acknowledgement Area for Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika)
- The adjacent Wellington Harbour is a Statutory Acknowledgement Area for Ngāti Toa Rangatira
- The Esplanade (near Te Puni Street) is identified as the location of the Pito-one Pa and a Site of Significant to Māori Culture under Appendix 14E of the District Plan. I note that the specific District Plan mapping shows this as not being located on-site, but within close proximity.
- The Esplanade is identified as an Urupā (burial ground) and a Site of Significant to Māori Culture under Appendix 14E of the District Plan. I note that the specific District Plan mapping shows this as not being located on-site, but within close proximity.

8.60 I have also reviewed the Cultural Impact Assessment carried out for Te Ara Tupua project by Waka Kotahi New Zealand Transport Agency (NZTA) which described the use of the adjacent reserve Honiana Te Puni Reserve for water sports as a significant cultural use.

8.61 The above collectively confirms the cultural connection between Māori and the foreshore, and that effects that would further erode this connection including changes in character, and could result in adverse cultural effects.

8.62 Having considered the advice of Ms McRae, the submission on behalf of Wellington Tenth's Trust, and without any evidence to suggest otherwise, I am of the view that there is a degree of cultural connection within the immediate vicinity of the digital billboard and can consider the cultural effects to be unacceptable.

Other adverse effects

8.63 Associated with development, there will be other smaller scale adverse effects such as temporary construction effects, which I consider can typically which can be adequately mitigated via appropriate conditions.

Positive effects

8.64 The application document noted in their Assessment of Environmental Effects the following potential positive effects associated the proposal:

The works detailed in the above for a V-shaped freestanding digital billboard allow for a well-designed sign within an environment which expects similar activities. The design and location of the sign allow it to be incorporated in a fashion which remove potential visual

dominance in an area of which commercial signage is common practice. Mitigation of potential adverse effects is achieved by the above-mentioned factors of the proposals design as detailed more in depth in the attached specialist reports.

- 8.65 I do not consider the above description to be a positive effect.
- 8.66 Many of the submitters also raised concern that third party advertising will have no positive effects, public or community benefits. I note that one submitter, being the owner of the land whom would benefit financially from the billboard, did outline that a billboard could be used to display community and emergency information. While this is possible, as a daily commuter between Wellington and Lower Hutt, where I pass a number of digital billboards on a daily basis, I have rarely seen third-party commercial billboards to be used in such a manner. Further, most of this information is conveyed through other media such as push-alerts to mobile phones, radio announcements, or news and weather apps such as the MetService app as was evident during COVID-19. In addition, NZTA have installed multiple traffic information signs in the region, which have been used to convey emergency messaging about traffic conditions.
- 8.67 I do however disagree with the other submitters that a billboard has no positive effects or value. I consider that 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.
- 8.68 I note that the Environment Court, in their decision on the digital billboards mentioned above, found that billboards provided no public benefit⁴.
- 8.69 I consider that the findings of the Environment Court in that case, is also relevant here.
- 8.70 Therefore, I do consider there to be positive effects but only to the benefit a very small number of people, with no public benefit or need identified to counterbalance or consider against any adverse effects on the wider environment.

Effects Summary:

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

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

- 9.1 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

⁴ Prime Property Group Limited v Wellington City Council NZEnvC 2021, paragraph 55

measures that could offset or compensate for the effects on the environment that would be acceptable.

10 Section 104(1)(b) – Relevant Planning Provisions:

10.1 I have had regard to provisions of the following planning documents as specified at section 104(1)(b)(i) – (vi) of the Act:

- National Policy Statement
- The New Zealand Coastal Policy Statement
- The Wellington Regional Policy Statement
- The District Plan

11 Higher Order Planning Documents:

11.1 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.

National Policy Statements

11.2 The following National Policy Statements (NPS) are currently in force.

- [National Policy Statement on Electricity Transmission 2008](#)
- [National Policy Statement on Renewable Electricity Generation 2011](#)
- [National Policy Statement on Urban Development 2020](#)
- [National Policy Statement on Freshwater Management 2020](#)
- [National Policy Statement for Highly Productive Land 2022](#)
- [National Policy Statement on Indigenous Biodiversity 2023](#)
- [National policy statement for Greenhouse Gas Emissions from Industrial Process Heat 2023](#)

11.3 The objectives of the NPS-UD 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.

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

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

11.6 Having regard to Policy 6(b), I do not consider this relevant as while the District Plan, provides for signage in commercial and business zones, it explicitly excludes The Esplanade as a permitted activity, and only provides for signs as a controlled activity where the size, location, height, etc. is limited to the permitted activity standards, and only where lighting is constant (i.e. not changing). This is not the case in relation to digital billboards and therefore it is my view that a digital billboard does not form part of the planned urban environment that that Policy 6(b) relates.

11.7 Having regard to Policy 6(c), I do not consider there to be sufficient urban benefits from the billboard, as also confirmed in the positive effects assessment above, that contribute or are consistent with well-functioning urban environments.

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

11.9 As a higher order planning document, the relevant objectives and policies of the NPS-UD have been taken into consideration.

11.10 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.

11.11 I do not consider the proposal to be consistent with the NPS-UD.

New Zealand Coastal Policy Statement

11.12 The [New Zealand Coastal Policy Statement](#) (NZCPS) came into effect in 2010 and guides local authorities in their day-to-day management of the coastal environment. The NZCPS identifies that the coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management. In addition, activities in the coastal environment are susceptible to the effects of natural hazards such as coastal erosion and tsunami, and those associated with climate change.

11.13 As was identified in section 5.7 of this report, the NZCPS has been identified as applicable. While the District Plan does not explicitly define the extent of the coastal environment, a report prepared for the Council by Boffa Miskell dated 2016 defines the coastal environment as extending inland to approximately Jackson Street, which is reflected in the non-statutory Draft District Plan Review mapping. The mention of the coastal environment are also noted throughout the District Plan as including the properties fronting The Esplanade.

11.14 The objectives of the NZCPS relevant to this proposal are:

- **Objective 2:** To preserve the natural character of the coastal environment and protect natural features and landscape values through:
 - o Recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
 - o Identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
 - o Encouraging restoration of the coastal environment.
- **Objective 3:** To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in the management of the coastal environment by:
 - o Recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
 - o Promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
 - o Incorporating mātauranga Māori into sustainable management practices; and
 - o Recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.
- **Objective 4:** To maintain and enhance the public open space qualities and recreational opportunities of the coastal environment by:

- Recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;
- Maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and
- Recognising the potential for coastal process, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advanced inland.

11.15 In addition to this Policies 1, 2, 6(h), 6(i), 13, and 15 and relevant to this application.

11.16 Policy 1 recognises that the extent and character of the coastal environment vary from location to location and includes those that contribute to the natural character, landscape and visual qualities and amenity values, and include physical resources and built facilities, including infrastructure, that have modified the coastal environment.

11.17 In relation to the site, as noted in many of the submissions and evidence by Ms McRae, I consider the coastal environments extends to the site despite is having been heavily modified and that those values include the visual qualities and amenity values currently present including the absence of any commercial digital billboards, or signage which display third party advertising that changes at regular intervals.

11.18 Policy 2 takes into account the principles of the Treaty of Waitangi and kaitiakitanga, and recognises the relationship iwi have with the coastal environment.

11.19 As noted in the submission on behalf of Wellington Tenth Trust, they are of the view that the proposal will further erode their sense of place and connection with the coastal environment.

11.20 Policy 6 relates to activities within the coastal environment, noting specifically under item (h) consideration of how visual impacts of development can be avoided in area sensitive to such effects as far as practicable, and under item (i) to set back development where practicable and reasonable, to protect the natural character and amenity values of the coastal environment.

11.21 As per the evidence of Ms McRae, the development will have a visual impact on the coastal environment that is sensitive to these effects, and does not as far as practicable or reasonable, protect the natural character and amenity values of the coastal environment.

11.22 Policy 13 seeks to preserve natural character of the coastal environment and protect it from inappropriate use and development by avoiding, remedying or mitigating adverse effects of activities on natural character. It is also noted under Policy 14(2)(e) that this may

include the natural darkness of the night sky and a range of natural character from pristine to modified and experiential attributes of the sea, and their context and setting.

11.23 In this regard, while the sky is not completely dark at night, the installation of a new digital billboard will further erode the natural darkness and introduce a new a different light source. Policy 13 notes also that natural character need not be pristine and that the values can include their context and setting.

11.24 Policy 15 seeks to protect natural features and landscapes of the coastal environment from inappropriate use and development. While I note that the digital signage in itself does not destroy natural features, it will have an impact on 'seascape' that is the view of the sea both from land, and potentially the sea itself such as those arriving to Wellington on a cruise ship or ferry. The natural features and landscape will be modified by the presence of a digital billboard that changes regularly, particularly when viewed at night.

11.25 Having regard to the NZCPS, I do not consider the digital billboard to be compatible with the coastal environment in this location and contrary to the objectives and policies of the NZCPS.

Regional Policy Statement:

11.26 The Regional Policy Statement provides an overview of the resource management issues in the Wellington Region, and the objectives, policies and methods to achieve integrated management of natural and physical resources. The proposal is generally consistent with the objectives and policies of this document as it: will not impact on air quality, fresh water, historic heritage, indigenous ecosystems or soils and minerals. I do however consider it contrary to a number of policies relating to natural character and the coastal environment, similarly as noted in the consideration of the NZCPS above.

11.27 The policies of the Wellington Regional Policy Statement (RPS) I have had specific regard to are:

- **Policy 35:** Preserving the natural character of the coastal environment;
- **Policy 36:** Managing effects on natural character in the coastal environment;

11.28 I consider the proposal contrary to Policy 35 in that it does not maintain nor enhance coastal amenity including that of the foreshore's open space and scenic values. As noted in many of the submissions, the Petone foreshore is a popular and valued coastal environment that is used for a range of activities, including as open space, scenic outlook, and recreation. The proposal does not maintain those values or enhance them. Conversely, it is contrary to Policy 35 in that in my view it will detract, particularly at night, from the natural coastal environment and amenity, that many enjoy.

11.29 I consider the proposal contrary to Policy 36, as there is no function or operational need to locate a digital billboard within or close to the coastal environment, and effects relating

to effects on natural character or scenic amenity are not able to be mitigated, other than by locating it elsewhere or turning the billboard off. I do note though that effects are not permanent as the billboard can be readily removed; however they will be present while the billboard is in place, potentially for a very long time.

11.30 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.

11.31 It is noted that there is a proposed change to the RPS, however none of the changes are relevant to the proposal.

District Plan:

11.32 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 14B 1.1** and associated policies (1) to (c)
- **Objective 14B 1.2** and associated policies (a) and (c)
- **Objective 14B 1.3** and associated policy (a)

11.33 In addition, the Petone Activity Area policies 5B 1.1.2A(a), (f), (h) and 5B 1.1.3(a), (c), (d) give context and guidance as to the intended outcome of the zone.

11.34 Objective 14B 1.1 provides for signs while avoiding, remedying or mitigating significant adverse effects on visual amenity values of the area in which they are located. While Ms McRae has not identified the effects as being significant, the proposal does appear to be contrary to the supporting policies with (a) being to protect amenity values, (b) to restrict the size, location and frequency where visual amenity values are sensitive and (c) being to manage the size, location, frequency and appearance between at the interface between the Commercial Activity Area and all other activity areas, which in this instance The Esplanade forming that interface between the Petone Commercial Activity Area 2 and Special Recreation Activity Area that forms the Petone foreshore.

11.35 Having regard to the advice of Ms McRae, Mr Upton, Mr Coolen and the numerous submissions received, I do not consider the signage to protect the amenity values of the Petone foreshore, nor sufficiently restricted in size and appearance in an environment where visual amenity is sensitive as is the case here, nor appropriately managed the interface between the zones.

11.36 Objective 14B 1.2 is in relation to adverse effects upon traffic safety and visibility. Based on the consensus amongst the traffic experts, it is considered that the signs themselves will not interfere with the safe and efficient use of the road, cycle or pedestrian ways. However, by design, it would be impossible for a digital sign of any kind to meet Policy (c) as by design, they are intended to momentarily distract to convey a message. The issue

therefore is whether that distraction would likely cause an accident and the impact of that accident should one occur. Therefore, while I consider the proposal to meet objective 14B 1.2 and associated policy (a), I consider it contrary to policy (c).

11.37 Objective 14B 1.3 is in relation to the visual amenity value and sense of place associated with main entrance routes to the city and associated policy (a) aims to manage this. As noted in the submissions and by all experts, there is no doubt that The Esplanade is a major entrance route to Lower Hutt City, and more specifically the Petone area. The issue then becomes consideration to the degree the proposal adversely effects the visual amenity values and sense of place. As noted in many of the submissions and expert evidence of Ms McRae and Mr Coolen, the signage will dominate and adversely affect the visual amenity of the area. In particular, the size, type of illumination, nature of changing imagery, third party advertising all contribute to the adverse effects on the visual amenity values and sense of place of Petone, which is associated with its location on the edge of the foreshore adjacent to Wellington Harbour. I consider that the proposal is inconsistent with Objective 14B 1.3 and associated policy (a).

11.38 The Objectives and policies of 5B 1.1.2, 1.1.3 and 1.2.3 relating to the Petone Commercial Activity Area 2 are also relevant here as they give context and further local detail regarding the intended outcomes for the area.

11.39 Policy 5B 1.1.2A(a) provides for a range of activities, provided their effects are compatible with other character and amenity values of the area. As described in the submissions and evidence of Ms Coolen, Ms McRae and Mr. Upton, the signage is not considered compatible with the character and amenity values and therefore contrary to policy 5B 1.1.2A(a).

11.40 Policy 5.1.1.2A(f) restricts activities, in particular late-night activities which may be incompatible with other activities or degrade the character and amenity values. The use of the billboard with changing images every 8 seconds all night, is incompatible with this policy as the intended character is for limiting night-time activities (eg. in contrast to somewhere like Courtenay Place whereby nighttime activities are encouraged).

11.41 Policy 5.1.1.2A(h) is a 'capture all' policy to avoid, mitigate or remedy adverse effects on the receiving environment. In this instance, the adverse effects relate primarily to visual effects, which as noted above is neither avoided, or sufficiently mitigated or remedied and therefore inconsistent with this policy.

11.42 It is also noted in the explanation and reasons for these policies, the need to avoid adverse effects on natural character and most specifically, the Petone foreshore, is identified.

11.43 Policies 5B 1.1.3 (a), (c) and (d) all relate to the need to manage the effects and visual appearance of the main entrances and gateways to the city, and enhancement of the relationships with open spaces. In this regard, as noted in many submissions and Ms

McRae, Mr Coolen and Mr Upton's assessment, the digital billboard does not adequately manage these effects or provide a sense of place, visual interest or have regard to the specific characteristics of Petone.

11.44 The explanation and reasons to these policies specifically state the importance of The Esplanade as one of the most important entrances to the city given its close association with the harbour and public open space along the Petone foreshore... *It carries a significant volume of traffic along the Petone foreshore area and the route is at the edge of the city and is part of the connection with the harbour, which is one of the region's most significant natural features. There is a contrast between one the one side of the road, a building dominated townscape, and on the other, an open and panoramic seascape.*

11.45 While the signage is neither a building, nor a structure, the explanation and reasons clearly indicate the values of the Petone foreshore and the value of The Esplanade as a gateway to the area and the need to manage development more broadly to maintain and enhance the amenity values and visual appearance.

11.46 Objective 5B 1.2.3 relates to the form and quality of buildings, structures, open space and development to result in an interface with the public realm, and where appropriate, minimise adverse effects on sensitive surrounding interfaces. Associated policy (i) require the management of effects of development on adjacent areas with distinct character. As note din the explanation and reasons to this objective, it specifically outlines the Petone foreshore and beach as one of the highly valued areas. It notes the foreshore and beach is valued for its recreation (active and passive), cultural, natural and historical values. Creating a landscaped frontage along The Esplanade responds to these values and provides an attractive environment. Based on the submissions received, and advice of experts, I do not consider the proposed development to result in an appropriate interface with the public realm and Petone foreshore as a highly valued area.

11.47 Overall, I am of the view that the proposal is contrary to the District Plan's relevant objectives and policies.

12 Part 2 of the Act

12.1 Part 2 sets out the purpose and principles of the Act (section 5); matters of national importance the consent authority must recognise and provide for when determining a resource consent (section 6); other matters the consent authority must have particular regard to (section 7); and provision for the principles of the Treaty of Waitangi (section 8).

12.2 The use, development and protection of resources is to be sustainably managed in a way that enables people and communities to provide for their social, economic and cultural wellbeing and their health and safety, while avoiding, remedying or mitigating any adverse effects of activities on the environment.

12.3 The Lower Hutt District Plan provisions were prepared under the higher order planning documents and, through its preparation and the process of becoming operative, have been assessed against the matters contained within Part 2.

12.4 Taking guidance from recent case law⁵, the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Lower Hutt District. It was competently prepared via an independent hearing and decision-making process in a manner that appropriately reflects the provisions of Part 2. Accordingly, no further assessment against Part 2 is considered necessary.

13 Conclusion & Recommendation

13.1 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 to be unacceptable.

13.2 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 NPS-UD, NZCPS, RPS and District Plan and to not meet the intention of Part 2 of the Act.

13.3 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.

13.4 That the Hearings Panel, acting under delegated authority from the Council and pursuant to section 104B of the Resource Management Act 1991, decline consent for the proposal to construct signage (digital billboard) on the site at 47 The Esplanade, Petone (being Lot 2 DP 83751).

13.5 If the Hearings Commissioner grants the consent, I recommend that it be subject to the conditions set out in Appendix A of this report.

13.6 I note that my recommendation is based on the information provided to date and based on the proposal being the two options of signage with an 8 second dwell time, operative 24/7. 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.

Processing Planner:



Principal Planner, contracted to Hutt City Council
Attached Appendices:

⁵ *R J Davidson Family Trust v Marlborough District Council* [2018] NZLR 473

- Appendix A – Recommended Conditions
- Appendix B – Applicant’s Assessment of Environmental Effects (AEE)
- Appendix C – Record of Title
- Appendix D – Billboard Plans
- Appendix E – Applicant’s Traffic Report (and supplementary report)
- Appendix F – Applicant’s Urban Design and Visual Effects Report (and supplementary report)
- Appendix G – Council’s Notification Report
- Appendix H – Submissions Received
- Appendix I – Council’s Traffic Assessment by Mr. David Wanty
- Appendix K – Council’s Traffic Evidence by Mr. Luke Benner
- Appendix K – Council’s Urban Design Assessments by Mr. Alistair Upton
- Appendix L – Council’s Urban Design Evidence by Mr. Jos Coolen
- Appendix M – Council’s Visual Effects Evidence by Ms. Emma McRae