

Report under section 42A of the Resource Management Act 1991

Resource application by	Bekon Media Limited
Application number	RM230535
Site address	332 Queen Street, Richmond
Legal description	Pt Sec 83 Waimea East Dist (RT NL1D/1120)
Report and recommendation prepared by:	Victoria Woodbridge, Consultant Planner

Note: This is not a decision.

This report sets out the advice and recommendations of the reporting planners.

The independent commissioners delegated by Tasman District Council to decide this resource consent application have not considered this report yet.

The independent hearing commissioners will only make a decision after they have considered the application and heard all evidence from the applicant, submitters and council officers.

1 Introduction

1.1 The application seeks the following resource consents:

RM230253 Land use consent to erect a single-sided 24.5 square metre digital billboard located above the building parapet within the Centre Business Zone.

1.2 This report has been prepared under section 42A of the Resource Management Act 1991 (RMA) to assist the hearing of the application for resource consents made by Bekon Media Limited on 17 August 2023 and amended on 22 May 2024. The application is considered under the RMA provisions as at the date the amended application was received.

- 1.3 Section 42A allows consent authorities to require the preparation of such a report on an application for resource consents and allows the consent authority to consider the report at any hearing.
- 1.4 The purpose of the report is to assist the Panel in making a decision on the application RM230535.
- 1.5 The relevant version of the RMA is the version under which the application was made. The amended application was lodged on 22 May 2024, and accordingly the RMA version is:

[Resource Management Act 1991 No 69 \(as at 13 April 2023\), Public Act Contents – New Zealand Legislation](#)

Qualifications and experience

- 1.6 My name is Victoria Woodbridge, I am the author of this report. I am employed by The Property Group in the role of Principal Planner. I have previously been employed as a Planning Consultant for another local Resource Management Consultancy and by Tasman District Council as a Consent Planner. I have over 16 years of experience in planning and resource management in New Zealand and the UK. My experience includes processing and lodging a wide range of resource consent applications, developing District Plans, Plan Changes and policies and writing associated reports and evidence.
- 1.7 I hold a Bachelor of Arts (Honors) English and Media Studies from the University of Glamorgan, UK and a Masters of Urban and Regional Planning from the University of Westminster, UK.
- 1.8 I am an Associate member of the New Zealand Planning Institute (NZPI) and I have completed the Making Good Decisions course with Commissioner Certification (2023).
- 1.9 I have been involved in the processing of the application since it was lodged in August 2023. I have undertaken a site inspection of the application site and the environs and frequently use the intersection where the billboard will be located as part of my usual travel around the district.

Expert witness code of conduct

- 1.10 I acknowledge that this is a consent authority hearing. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the [Environment Court Practice Note 2023](#). I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute “[Role of Expert Planning Witnesses](#)” paper. I confirm that the evidence on planning matters that I present is based on my qualifications and experience, and within my area of expertise. I am not aware of any material facts which might alter or

detract from the opinions I express. If I rely on the evidence or opinions of another, my evidence will acknowledge that.

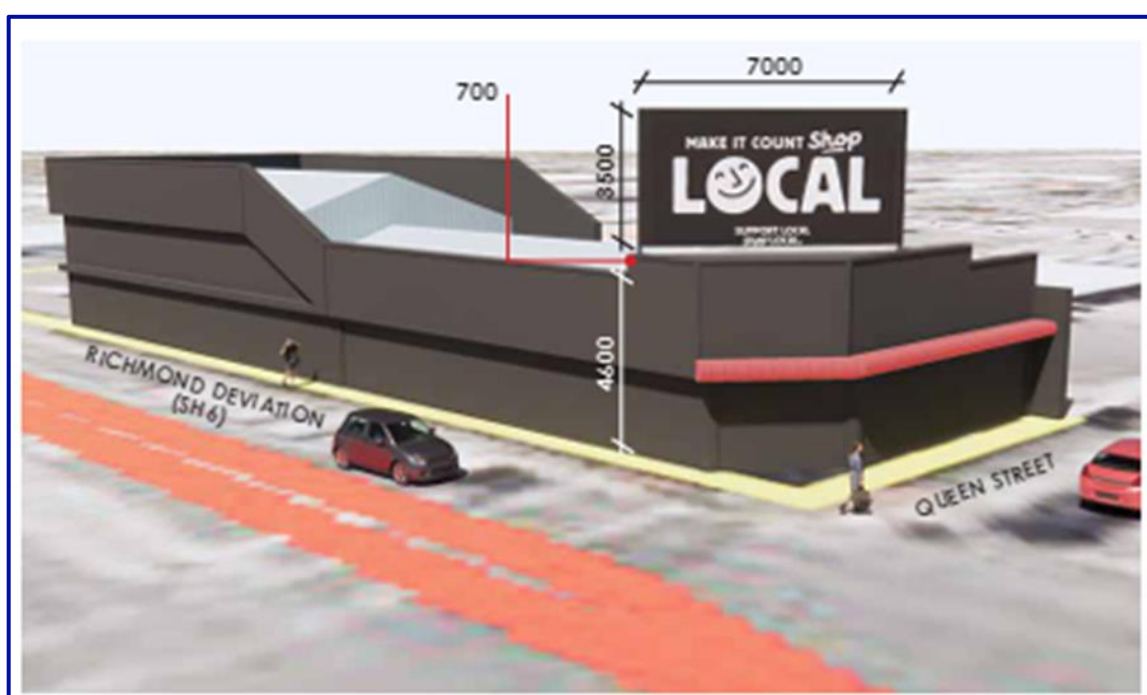
2 Proposed activity and Background

- 2.1 In August 2023 the applicant lodged a resource consent for a static billboard measuring 3m high and 6m wide (18m²), with periodic changes to the advertising material displayed which would be no less than weekly.
- 2.2 Following a Section 95 notification decision to publicly notify the application under Section 95D of the RMA the applicant requested the application was placed on hold. The application was subsequently amended to replace the static billboard with a larger digital billboard. A detailed description of the proposal is provided within the amended application lodged on 22 May 2024¹.
- 2.3 As the scope and scale of the application was considered to have materially altered the Council determined that it was appropriate to re-consider the amended proposal against Sections 95D and 95E of the RMA. A further notification decision to publicly notify the application under Section 95D was made on 4 July 2024.
- 2.4 In summary the application proposes to erect a digital billboard as follows (refer also to Figure 1 below):
- a. The billboard will be mounted on the northwestern parapet of the building on the site, above the west-facing angled wall.
 - b. The billboard will be 24.5 square metres in area and 3.5m high by 7m wide.
 - c. The billboard will only display still images with a minimum duration of 8 seconds per image. There will be no transitions between still images apart from cross-dissolve of 0.5 seconds. The following will not be displayed:
 - i. Live broadcast or pre-recorded video;
 - ii. Movement or animation of images;
 - iii. Flashing images;
 - iv. Sequencing of consecutive advertisements;
 - v. Images using graphics, colours or shapes in such a way that they could cause confusion or conflict with any traffic control device, nor invite or direct a driver to undertake an action.

¹ Available – [Bekon Billboard | Tasman District Council](#)

- d. The signage displayed on the billboard will not relate to the application site and will advertise third party products and services.
- e. The billboard will not result in more than 10.0 lux spill (horizontal or vertical) of light when measured or calculated 2 meters within the boundary of any adjacent site and the display will not exceed 5,500cd/m² during daytime hours and 250cd/m² maximum and 150cd/m² maximum average during night-time hours.
- f. The display will incorporate a lighting control to automatically adjust the brightness of the display in line with ambient light levels.
- g. No advertisement will be installed within the signage platform that will mimic the design, shape or colour combinations of the traffic signals.

Figure 1: Visual Imagery of Billboard (Source - DCM visual package May 2024)



3 Site and surrounds description

- 3.1 The application site is located at 332 Queen Street, held in Record of Title NL1D/1120 and legally described as Part Section 83 Waimea East District. It is shown in Figure 2 below.
- 3.2 The application site is located on the corner of Queen Street and State Highway 6 (SH6) in Richmond. The site contains a single storey commercial building (Pet Mart), located on the south-east corner of the intersection. The existing building extends right up to the legal road boundary, abutting the adjoining pedestrian footpath. The Queen Street frontage of the building comprises a veranda which extends over the pedestrian footpath. Vehicle and

pedestrian entrance to the building is provided from McGlashen Avenue, although there is a door on the Queen Street elevation this does not appear to be in use.

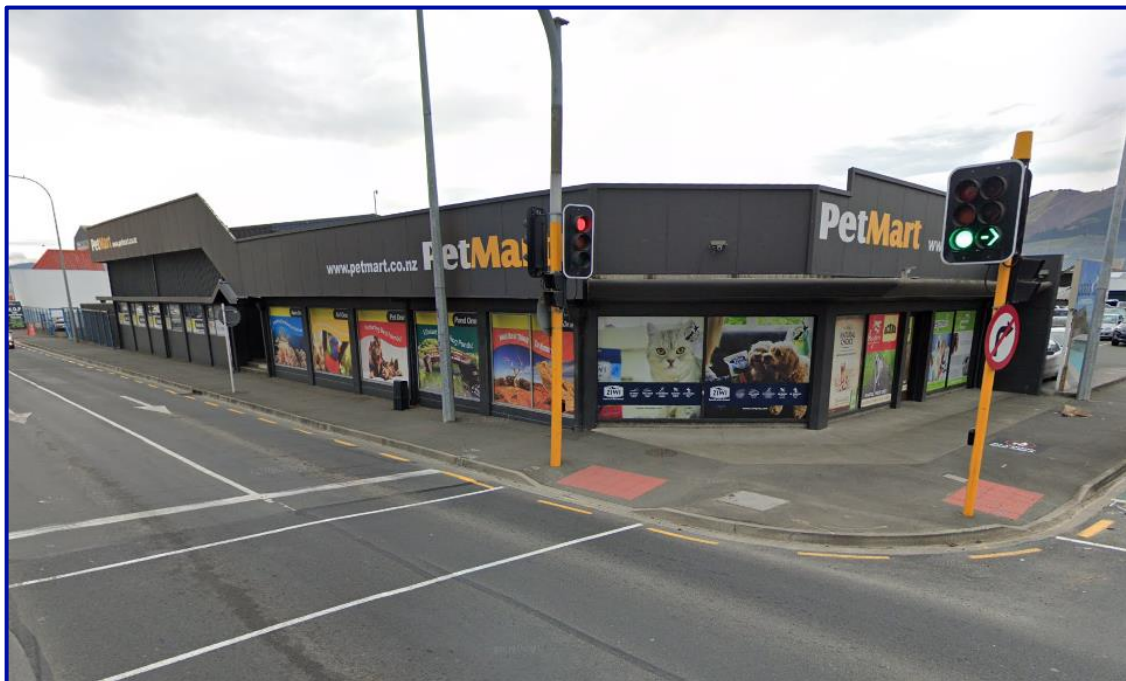
Figure 2: Location of the subject site (source TDC GIS planning maps).



- 3.3 The receiving environment is characterised by a mixture of commercial activities and buildings. These include food outlets, a restaurant, car dealership and retail stores. In the wider area are service stations and industrial activities, such as car repairs and warrant of fitness (WOF) testing facilities.
- 3.4 These businesses have a range of freestanding signage, signs attached to buildings, with large pylon signs, flag signage and signs installed above building parapet's evident in the vicinity. Most buildings have signs attached to the building, at times on more than one frontage. The retail complexes on either side of Gladstone Road also have freestanding signs which incorporate signage for each of the businesses within the complex.
- 3.5 Queen Street is the primary retail area for Richmond with retail stores, cafes and restaurants fronting Queen Street and access provided further along Queen Street to the Richmond Mall and the Warehouse / Kmart retail complex. Parking is provided on both sides of the road with other public car parking available from side roads off Queen Street and in the Richmond Mall car park at the northern end of Queen Street.
- 3.6 Queen Street is a low speed environment with wide footpaths, there are street trees and several 'pocket parks'. Views of the Richmond Ranges are a key feature of the amenity of Queen Street and the combination of low built form, street trees and the Richmond Ranges influence the character of the street.

- 3.7 Gladstone Road contains a mix of commercial and industrial activities and further to the west are residential dwellings and motels. Being the State Highway, the road is a high traffic route which, coupled with the activities along the road, influences the character of the road.
- 3.8 Lower Queen Street has been significantly developed over the last five years and as such traffic volumes have increased. Special Housing Area resource consents allowed for construction of the Berryfields subdivisions which has resulted in over 600 residential sections. A new retirement village has also been constructed meaning there are now two retirement villages (Oakwoods and Arvida) along Lower Queen Street.
- 3.9 There are also a range of industrial, community, recreational (A&P Showgrounds) and retail activities along Lower Queen Street and access to the Beach Road Industrial Area is provided from Stratford Street which is accessed from Lower Queen Street.
- 3.10 The building onsite is currently occupied by Pet Mart, a pet supply retail store. On the elevation facing the State Highway and Queen Street the building has attached signage displaying animals and associated product names such as Avi One (a range of bird related products). As far as I am aware these signs have been in situ for many years. Other signage on the building displays the store name 'Pet Mart' and their website painted onto the building elevation on the State Highway and Queen Street frontage. An image of the building is provided in Figure 3 below.

Figure 3: Image of existing building on subject site (source google streetview).



- 3.11 The intersection where the billboard will be located is controlled by traffic signals, other than the left turn slip lane from Lower Queen Street for north bound traffic which is priority

controlled by a give way sign. There are pedestrian movements provided for on all four legs of the intersection.

- 3.12 The posted speed limit along Lower Queen Street and SH6 is 50km per hour and the posted speed limit along the southern portion of Queen Street is 30km per hour.
- 3.13 There are footpaths provided along Queen Street and Gladstone Road, with signal controlled pedestrian crossings across all roads at the intersection. There is also an uncontrolled pedestrian zebra crossing over the left turn slip land on Lower Queen Street, this crossing provides access to the Great Taste Trail cycle path which continues along the footpath on the northern side of the Richmond Deviation.
- 3.14 As a key arterial route through the region the intersection is used by heavy goods vehicles and cars. People who regularly commute about the district or simply travel for personal reasons use the intersection on a daily basis given it is a key route between Tasman and Nelson. The New Zealand Transport Agency – Waka Kotahi (NZTA) advises that the seven day average traffic count for the intersection are 21,050 (two-way) on SH6 and 9,660 (two-way) on Lower Queen Street.
- 3.15 The nearest residential dwellings are located approximately 180m from the site at 337 and 344 Lower Queen Street. Both dwellings are single storey, surrounded by established vegetation and are facing the street, not the proposed billboard location.

4 Status of application

- 4.1 The application RM230535 was lodged with the Tasman District Council in August 2023 and amended on 22 May 2024.
- 4.2 The Tasman Resource Management Plan (TRMP) zoning and overlay areas for the site are:
- | | |
|-------------|-------------------------|
| TRMP Zoning | Central Business Zone |
| TRMP Areas | Land Disturbance Area 1 |
- Designation D120 (state highway purposes) adjoins the site on the northern boundary.
- 4.3 TRMP maps generated through the Council GIS (Local Maps) for the site and surrounds are provided as Attachment 3.
- 4.4 The TRMP permitted activity rules contravened by the proposed activities and the resulting activity statuses are listed in the table below.

Activity	Applicable Rules	Status
RM230535 Land use		
<p>Land use consent to erect a single-sided 24.5 square metre digital billboard located above the building parapet within the Centre Business Zone.</p>	<p>The proposed activity does not comply with the following permitted activity rules:</p> <ul style="list-style-type: none"> a. 16.1.4.1(a) requires a sign to be located and have the dimensions in accordance with Figure 16.1B. The sign will be located above the parapet of the building therefore is not consistent Figure 16.1B. b. 16.1.4.1(b) requires a sign to meet conditions (b) to (h) of Rule 16.1.3.1. The proposal is for signage not related to activities being undertaken on the site, and is not of temporary nature, therefore does not meet 16.1.3.1(b). c. 16.1.4.1(c) requires a sign to comply with the requirement indicated in Figure 16.1B. The sign will be located above the parapet of the building to which it is attached and therefore does not comply with Figure 16.1B.² d. 16.1.4.1(e)(i) requires any sign painted on, or attached to, a building to be related to the activity operating therein (i.e. onsite advertising). The proposal is for off-site advertising. 	<p>Restricted Discretionary under Rule 16.1.4.2</p>

² Figure 16.1B includes a maximum area of 1.0 square metres for projecting signs. The image shows a sign projecting from the building façade with a requirement the sign should be no higher than the building parapet. It is unclear whether the billboard would be a 'projecting sign' based on Figure 16.1B, however, as the billboard projects beyond (above) the building parapet therefore the sign could be considered to be a 'projecting sign' in which case a permitted baseline of 1 square metre would apply and there would be a non-compliance with Rule 16.1.4.2(e)(iv).

Activity	Applicable Rules	Status
	e. 16.1.4.1(e)(iii) requires a sign to be no higher than the roof peak or parapet of that part of the building to which the sign is attached. The sign will be higher than the parapet.	

Overall activity status

- 4.5 The above resource consent is a restricted discretionary activity, and the matters of discretion are restricted to those in the TRMP. The relevant rule in the TRMP is 16.1.4.2.

Existing resource consents

- 4.6 There are no relevant existing resource consents for the application site.

5 Notifications and submissions

- 5.1 The following is a summary of key steps in the timeline for the application:

Date	Process detail
17 August 2023	Application lodged
25 October 2023	Further information requested
7 December 2023	Further information received
19 December 2023	Notification Decision
22 May 2024	Amended application received
4 July 2024	Notification Decision
13 July 2024	Application Publicly Notified
9 August 2024	Submission period closed
5-6 November 2024	Hearing scheduled

Written approvals

- 5.2 No written approvals were provided with either the original or amended applications.

Notification

- 5.3 In the decision made by the Council on 4 July 2024 that the application must be publicly notified, New Zealand Transport Agency Waka Kotahi (NZTA) were also served notice.

Submissions

- 5.4 A total of 27 submissions were received. All submitters expressed opposition to the application, with nine submitters wishing to be heard.
- 5.5 The above includes two late submissions that were accepted by the Council under section 37 of the Act after taking into account the relevant matters of section 37A (interests of parties, interests of community in adequate assessment of proposal, and duty to avoid unreasonable delay).
- 5.6 A summary of submissions is attached to this report (Attachment 4).

Comments on submissions

- 5.7 The submissions have raised the following issues:

Issue
<p>Traffic effects</p> <ul style="list-style-type: none">• Safety – distraction as a result of the billboard with potential to result in accidents, in relation to motorists and vulnerable users.• Safety – adverse effects on free left hand turn and concern over existing performance of intersection which has a high crash rate.• Efficiency of intersection resulting in increased congestion.
<p>Amenity Effects</p> <ul style="list-style-type: none">• Obstruction of views to hills.• Visual clutter.• Luminance levels.• Adverse effects on visual amenity which are already low.• Height of sign above the building parapet.• Off site advertising.
<p>Other</p> <ul style="list-style-type: none">• Light pollution - including effects on estuary ecology, bird life, people and animals as well as dark sky values.• No lighting management plan.

Issue

- Risk of 'un-wholesome' advertisements
- Does not serve any purpose.

6 Statutory considerations - the Resource Management Act 1991

Part 2 – Purpose and principles

- 6.1 The purpose of the Resource Management Act (The Act or RMA) is the sustainable management of natural and physical resources. It sets a national framework, guiding regional and district statutory provisions to manage the actual and potential effects of the use of natural and physical resources.
- 6.2 The following Part 2 matters are considered relevant to this application
- 6.3 There are no Section 6 matters considered relevant.
- 6.4 Section 7 identifies other matters that any person exercising functions and powers in relation to managing the use, development, and protection of natural and physical resources under it must have particular regard to. The following are relevant to the consideration of this application:
- (b) *the efficient use and development of natural and physical resources:*
 - (c) *the maintenance and enhancement of amenity values:*
 - (f) *maintenance and enhancement of the quality of the environment:*
- 6.5 In achieving the purpose of this Act, under section 8 all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). No section 8 or cultural issues are considered engaged by this proposal.
- 6.6 The Key Issues assessments in the following sections of this report identify any aspects of the development which are considered potentially inconsistent with the principles of Part 2 of the Act. This includes through the lens of the relevant statutory documents prepared to achieve the purpose of the Act. Where no assessment is made, those aspects of the development are considered non-contentiously consistent with these.

Section 104

- 6.7 A decision on these applications must be made under sections [104](#) and [104C](#). The consideration of the matters a consent authority must have regard to under section 104 are subject to Part 2 (purpose and principles) of the Act.

Section 104C – Restricted discretionary activity

- 6.8 Under [section 104C](#), as a restricted discretionary activity the consent authority may grant or refuse a resource consent, but in considering the application (and any appropriate conditions of consent) it must consider only those matters over which its discretion is restricted under the relevant plan, proposed plan or national environmental standards (or other regulations).
- 6.9 In this instance the relevant matters of discretion are set under rule 16.1.4.2.

Effects – s 104(1)(a)

- 6.10 The consent authority must have regard to any actual and potential effects of the environment of allowing the activity³. In considering any actual and potential effects:
- a. any adverse effects that may arise from permitted activities in a national environmental standard (NES) or a plan may be disregarded⁴ (the permitted baseline),
 - b. any effect on a person who has given written approval to the application must be disregarded⁵.
- 6.11 “Effect” is defined under section 3 of the RMA.

Permitted Activity

- 6.12 When considering the actual and potential effects of an activity on the environment, the Council **may** disregard an adverse effect of the activity if an NES or Plan permits an activity with that effect (emphasis added). This is often referred to as the “permitted baseline” and provides a comparison of the activity with the effects of permitted activities.

³ s 104(1)(a) RMA

⁴ s 104(2) RMA

⁵ s 104(3) RMA, noting that there are no issues of potential trade competition effects engaged in respect of this application

- 6.13 It should be noted that the permitted baseline is a discretionary comparison, and it is for the decision-maker to decide whether or not it is appropriate to have regard to the permitted baseline.
- 6.14 In this instance the permitted baseline allows for a single sign on the site which relates to the activity undertaken on the site and where the sign complies with size and location limitations as follows:
- a. The sign is no higher than the building parapet (16.1.4.1(c)).
 - b. Any projecting sign has a maximum area of 1 square metre.
 - c. Freestanding signs are setback at least 10 metres from any road intersection.
- 6.15 Given there is a significant difference between what is provided for as a permitted activity (due to number of signs, size and location of sign) I do not consider the permitted baseline to be of any relevance to the proposal.

Statutory documents – s 104(1)(b)

- 6.16 Under section 104(1)(b) the Council must have regard to any relevant provisions of statutory documents, including national environmental standards, other regulations, national policy statements, the New Zealand coastal policy statement, regional policy statement, and plan or proposed plans. The specific relevant statutory documents are identified below.

National environmental standards

- 6.17 I do not consider there to be any relevant National Environmental Standards (NES).

National policy statements

- 6.18 The purpose of national policy statements (NPS) is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act. The National Policy Statement on Urban Development 2020 (NPS-UD) is the only NPS considered relevant.
- 6.19 The NPS-UD recognises the significance of urban environments and the need to enable development and that this might result in a change to the amenity values of the environment which, in itself, is not an adverse effect. The NPS-UD has a purpose of enabling urban intensification through well-functioning urban environments by directing decision makers under the Act to ensure planning decisions enable development to provide sufficient development capacity for housing and businesses.

- 6.20 The application site is within an urban environment and as such the NPS-UD has relevance and development should align with the objectives and policies of the NPS. Whilst the NPS-UD is not directly relevant to signage there is an indirect correlation between providing for well-functioning urban environment and how amenity values may change as a result increased business capacity which could result in a greater proliferation of signage.

Tasman Regional Policy Statement

- 6.21 The objectives and policies in the Tasman Regional Policy Statement (TRPS) relevant to the proposed activity are reflected in the provisions of the Tasman Resource Management Plan (TRMP).

Tasman Resource Management Plan

- 6.22 The TRMP is a unitary plan and is the relevant operative plan.
- 6.23 The plan provisions relevant to the proposed activity are included in the assessment in the Key Issues sections.
- 6.24 However, there are also a number of definitions within Chapter 2 Meaning of Words which are relevant to signs and therefore this application:

Animated sign – means a sign that moves, has a message that moves, gives the effect of a moving display or has a moving attachment aimed at drawing attention to the sign, but does not include small, loosely attached discs which give a rippling effect when moved by the wind.

Free-standing sign – means a sign that is not mounted on a wall or building, and may be either permanently fixed to the ground by way of a support structure, or removable.

Sign – means any poster, placard, handbill, writing, picture, painting, engraving, carving, illuminated sign, aerial display, hoarding, billboard, flag or other device erected or displayed for the purpose of attracting the attention of passers-by and includes the frame, support structure and anchorage, but does not include:

- (a) road marking or traffic signs erected on roads by controlling authorities under the Traffic Regulations 1976;
- (b) signs on shop windows;
- (c) advertising on motor vehicles with a current registration and warrant of fitness, except where the vehicle acts as a stationary support structure for commercial advertising.

Signs may be double sided.

Sign area (also referred to as **display area**⁶) — in relation to a multiple-sided sign, sign area is the area when viewed from any one direction, providing that the total area of all faces of a sign do not exceed twice that permitted in the relevant signage rules.

Traffic sign – means any sign that is erected or authorised by or on behalf of the road controlling authority for the purpose of road marking, traffic control, or enforcement.

- 6.25 The TRMP is subject Proposed Plan Changes 76 (Growth Wakefield) and 80 (Motueka West) neither of which are relevant to the proposal.

Other matters – s 104(1)(c)

- 6.26 The consent authority may consider any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Statutory Acknowledgement Areas

- 6.27 Statutory Acknowledgement Areas have been established by the Te Tau Ihu Claims Settlement Act 2014. These acknowledgements recognise the special associations or particular relationships that these eight iwi making up Te Tau Ihu have with areas and resources, including with the coastal marine area or freshwater bodies in the region.
- 6.28 In this instance the application site is not within a Statutory Acknowledgment Area. Before the notification decision was made on the resource consent application, notice in accordance with the legislation was sent to all eight Te Tau Ihu iwi.
- 6.29 Although Ngāti Tama requested to view the application no response or feedback was received from Ngāti Tama and no comments or feedback was received from any other iwi.
- 6.30 None of the iwi were considered affected parties.

Submissions

- 6.31 The submissions as other matters are considered under s104(1)(c).

⁶ TRMP Chapter 2 Meaning of Words does not include a separate definition for 'display area'

Iwi Management Plans

- 6.32 Iwi Management Plans are the planning documents that are recognised by each iwi authority and lodged with the local authority under the Resource Management Act 1991. They are relevant considerations to have regard to under section 104(1)(c) of the RMA. The following Iwi Management Plans have been lodged with Council:
- a. Ngāti Kōata Trust Iwi Management Plan 2002
 - b. Ngāti Rārua Environmental Plan 2021
 - c. Ngāti Tama Environmental Management Plan 2018
 - d. Pakohe Management Plan 2015 Ngāti Kuia
- 6.33 I have reviewed the Iwi Management Plans listed above and do not consider any of them to have direct relevance to this proposal.

7 Key issues

- 7.1 The application status is restricted discretionary under rule 16.1.4.2, therefore Council's discretion is restricted to the following:
- (1) Location and legibility in relation to traffic safety.
 - (2) Any amenity effects on the surrounding area, including size and duration.
- 7.2 Based on an assessment of the application, the matters of discretion and review of the submissions received I consider there are two key issues as follows:
- a. Issue - Traffic effects
 - b. 7.2 Issue - Amenity effects
- 7.3 These key issues for this application are considered in detail below in sections 7.1 and 7.2. These sections identify the issues of contention, including an assessment of the actual and potential effects, the submissions, the relevant provisions of the statutory documents, relevant sections of the Act, and the appropriateness of any recommended conditions of consent.

7.1 Issue - Traffic effects

- 7.4 Matter of discretion (1) states "location and legibility in relation to traffic safety". I have interpreted this to allow for a consideration of both the location of the sign in relation to traffic safety and whether the message displayed on the sign can be read / deciphered in a manner which does not impact on traffic safety.

- 7.5 Out of the 27 submissions received, 24 (including NZTA) raised concerns in relation to traffic effects. The matters raised in the submissions are summarised as follows:
- a. Traffic volumes and complexities of the intersection, including uncontrolled pedestrian crossing and free turn for north bound traffic.
 - b. High crash rate of the intersection.
 - c. Distraction from the billboard will increase accidents (including more serious accidents) and risks for road users, including vulnerable users such as elderly residents, students, cyclists and pedestrians.
 - d. Personal experiences of seeing near misses and crashes.
 - e. Inconsistent with national guidelines.
 - f. Research from Automobile Association (2023) which states 34% of accidents were driver distraction.
- 7.6 The application is supported by an Assessment of Transportation Matters (**ATM**) from Carriageway Consulting issued 21 May 2024. This report appears to incorporate the original Transportation Matters Assessment from Carriageway Consulting dated 9 August 2023 which supported the original application for a static billboard. For clarity, in this report when I refer to the Carriageway ATM, I am referring to the report dated 21 May 2024, this report is provided at Attachment 6.
- 7.7 The Council engaged Affirm NZ Ltd (**Affirm**) to undertake a review of the traffic assessment. Mr Fon of Affirm provided a review of the Carriageway report for both the original and amended applications. These reviews are provided at Attachment 7. Mr Fon has also provided a further review to support this report, this review is provided at Attachment 8.

Current Intersection Performance

- 7.8 Both the Carriageway ATM and Mr Fon provide an assessment of the operating nature and crash history for the intersection where the billboard is proposed. Both the Carriageway ATM and Mr Fon acknowledge the volume of crashes at the intersection and identify those crashes which led to injury, however, the conclusions both reach in response to whether the crash data is reflective of the operation of the intersection differs.
- 7.9 I note Mr Fon also undertakes a comparison between the 2014-2018 data and the 2019-2023 data which is analysed within the Carriageway ATM and states that there has not only been

in an increase in crashes at the intersection (20 to 27), the reported all-injury crashes have increased from three to eight between the two periods.⁷

- 7.10 The Carriageway ATM concludes that *"the crashes typically had different contributing factors and occurred in different locations. Crash types such as nose-to-tail collisions in queues of traffic, and drivers undertaking turning movements when having a red or orange signals are common at urban intersections. As such, it does not appear that there are any inherent road safety deficiencies at this location..."*
- 7.11 In his original traffic assessment Mr Fon stated that based on the volume of traffic travelling through the intersection and the crash history the intersection is classified as having *"medium-high risk for both collective risk and personal risk"*.⁸
- 7.12 Considering the performance of the intersection in a local context Mr Fon states that *"a brief investigation has been carried out using reported crash data from the Waka Kotahi Crash Analysis System (CAS) for crashes coded only to intersections, at all urban intersections (maximum 50km/h regulatory speed limit) in the Nelson and Tasman regions for the five-year period 2019 – 2023. This covers all intersections within the main urban areas of both regions including Nelson, Richmond, Stoke, Motueka, Takaka, Wakefield and Brightwater."*
- 7.13 Further Mr Fon compares the intersection to other signalised urban crossroad intersections nationally indicates that *"the observed injury crash rate at the intersection is close to the worst 30% of similar intersections nationally, or in other words the crash rate is higher (worse) than that of 70% of similar intersections."*⁹
- 7.14 Overall, based on the data analysed Mr Fon disagrees with the Carriageway ATM that there are no inherent road safety deficiencies at this intersection. I agree with Mr Fon's conclusion in regard to the current operating nature of the intersection as I consider his conclusion is based on both local and national comparisons and considers the safety performance in line with the procedures outlined in the Waka Kotahi High Risk Intersections Guide.
- 7.15 There has been and is ongoing significant development along Lower Queen Street which has resulted in an increase in traffic volumes at the intersection. The intersection is regularly used heavy goods vehicles and cars as well as by vulnerable users – pedestrians (including older persons and school children) and cyclists.

⁷ Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, 19/09/2024 Section 5 page 2

⁸ Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, 7/12/2023, Section 5 page 1

⁹ Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, 19/09/2024 Section 5 page 2

- 7.16 Of particular concern at the intersection is the uncontrolled left-hand turn which allows for cars to turn left onto SH6 by giving way to oncoming traffic, there is also a pedestrian crossing which is used by pedestrians and also cyclists accessing the nearby Great Taste Trail over this left turn lane.
- 7.17 The Carriageway ATM identifies a number of crashes associated with this turn and also identifies that both the pedestrian crossing and give way painted line are faded. The Carriageway ATM also states that proposed billboard would be outside the field of vision of the turning driver¹⁰. However, I disagree with this statement, based on my site visit and a review of Google Streetview I consider that the billboard would be visible from this turn and therefore it is unclear whether the Carriageway ATM has sufficiently considered the risk associated distraction from the billboard on drivers using this turn.
- 7.18 Figures 4 and 5 show the view drivers would have of the billboard along the left turn slip lane, both at the give way line (Figure 4) and prior to the pedestrian crossing (Figure 5).

Figure 4: View of billboard at give way line Lower Queen Street leg of intersection (source google streetview).



¹⁰ Carriage Assessment of Transportation Matters Section 5.3.1 page 20

Figure 5: View of billboard just before pedestrian crossing at Lower Queen Street leg of intersection (source google streetview).



- 7.19 Development along Lower Queen Street has significantly increased in the last 3 years and is ongoing, meaning it is likely that traffic at the intersection will further increase. I note that there is undeveloped land zoned Mixed Business and land zoned deferred Industrial which may reasonably be developed in the near future which would result in further effects on the operation of the intersection.
- 7.20 NZTA, as submitter has shared data with both the applicant, myself and Mr Fon, from their data gathering exercise over the course of a single day (5 September 2024) to assess the number of pedestrians and cars using the left turn lane in a single day. I understand this data will be included in their evidence.
- 7.21 The data appears to indicate that as an average almost 1 in 2 pedestrians had an interaction (i.e. a car was approaching or travelling through) the left hand turn lane when they were attempting to cross on the pedestrian crossing). The data also identifies a number of conflicts where vehicles did not give way (potential near misses) or cars stopped over the crossing preventing safe crossing. The data records 10 conflicts in one day, based on pedestrian numbers of 322 for the day this equates to 3% of pedestrians experiencing a conflict in a single day.

Research and Guidance

- 7.22 The Carriageway ATM provides commentary on a range of research papers which address the road safety effects of digital billboards, these reports are from New Zealand and

overseas. I have not reviewed these reports in full and therefore rely in the information provided within the Carriageway ATM and the review from Mr Fon.

- 7.23 The Carriageway ATM quotes an Austroads research report on the "Impact of Roadside Advertising on Road Safety" and based on that report concludes there is insufficient research on which to base conclusions regarding the safety of roadside advertising and an element of judgement is required¹¹.
- 7.24 However, I note that Mr Fon identifies that the quote from the Austroads research report in the Carriageway ATM at paragraph 3.2.2 omits a following sentence which states "*On the other hand, from a Safe Systems perspective it would be difficult to justify adding any infrastructure to the road environment that could result in increased distraction for drivers.*"¹²
- 7.25 In relation to the range of research papers the Carriageway ATM acknowledges that "*it is unclear then how many of the papers are directly applicable to the current application and therefore whether they can be given any weight in this specific context.*"¹³
- 7.26 However, the ATM does go on to discuss crash data relating to roads where there are other digital signs around New Zealand and states that "*.....a review of the Waka Kotahi CAS database shows there has been no reported crash where distraction from a consented digital billboard has been cited as a contributing factor, and there is no location in New Zealand where the number/rate of reported crashes has increased after a digital billboard has been installed compared to the number/rate of reported crashes prior to installation.*"¹⁴
- 7.27 The submission from NZTA also acknowledges that "*it is not possible to definitively conclude that there is a direct relationship between driving behaviour changes attributed to roadside advertising and road crashes. Nonetheless, while most studies remain inconclusive, an emerging trend in the literature suggests that roadside advertising can increase crash risk, particularly for signs that frequently change (digital billboards). It is also important to note that most of the empirical studies undertaken to date have strong methodological limitations. Accordingly, it is important to act with precaution when assessing the potential effects of billboards on road user safety.*"
- 7.28 I acknowledge and agree with these statements in relation to the relevance of research reports and given I have not reviewed the research reports it is unclear, how comparable the research is to the actual receiving environment. I consider this to be a crucial aspect of how

¹¹ Carriageway Assessment of Transportation Matters paragraph 3.2.4

¹² Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, Section 5, page 3

¹³ Carriageway Assessment of Transportation Matters paragraph 3.2.9

¹⁴ Carriageway Assessment of Transportation Matters paragraph 3.2.18

much weighting could be placed on the research evidence, particularly considering the existing known deficiencies with the intersection which Mr Fon has comprehensively assessed.

- 7.29 I acknowledge the crash data analysis relating to existing digital signs in New Zealand which the Carriageway ATM refers to, however, again without understanding the specifics of this data and how it corresponds to the application site and the particulars of the intersection where the sign is proposed it is difficult to know how much weighting to give this information.
- 7.30 The Waka Kotahi Traffic Control Devices Manual is relevant to the assessment of the billboard and requires that to avoid safety issues advertising signs should not be located within 100 metres of intersections, permanent regulatory or warning signs or pedestrian crossings in urban areas. I understand the Waka Kotahi Traffic Control Devices Manual requirement around signage in proximity to an intersection has been imposed to adopt a safe system approach to traffic and road safety and any non-compliance with the requirement should be assessed on a case-by-case basis.
- 7.31 On the face of it I consider this to be a fairly blunt mechanism which adopts a precautionary approach, although such a requirement in a District Plan would allow for consideration of the adverse effects on a case-by-case basis, which would align with the intent of the requirement. I acknowledge that, as identified within the Carriageway ATM there are likely to be a multitude of signs within 100 metres of intersections and notably there are existing signs at the intersection adjacent to the application site. It is unclear whether the existing signage at the intersection makes any contribution to the issues associated with the intersection performance.
- 7.32 I note also that the TRMP only requires freestanding signs to be setback 10 metres from intersections as a permitted activity. Therefore, signage could be erected on a building on the application site within 100 metres (or even within 10 metres) of an intersection without requiring a resource consent.
- 7.33 Overall, I acknowledge that the research papers do not conclusively identify a direct correlation between distractions from digital billboards and crashes, however, I consider they do provide some useful guidance, in particular the Austroads research report¹⁵. As noted by both the Carriageway ATM and Mr Fon research papers hold less weight than Austroad guides (which do not appear to have been directly referenced by either Mr Fon or the Carriageway ATM). However, I also understand that both research papers and Austroad

¹⁵ Austroads Publication AP-R420-13 - Impact on Roadside Advertising on Road Safety

guides would hold less weight than guidance from NZTA. In this instance, therefore, I consider that the Waka Kotahi Traffic Control Devices Manual holds the most weight.

Assessment of Effects

- 7.34 Mr Fon acknowledges that whilst the proposed billboard does meet some of the requirements of the Waka Kotahi Traffic Control Devices Manual the proximity to the intersection (i.e. non-compliance with the 100 metre setback requirement) is a fundamental matter for consideration.¹⁶ Mr Fon has also raised concerns about the overlap between the billboard and the traffic signals when viewed from the Lower Queen Street approach, particularly at a distance where drivers will need to be making key decisions as to whether to brake and stop or proceed through an intersection.¹⁷
- 7.35 Taking account of the existing deficiencies at the intersection which already result in a higher crash rate than at any other intersection in the region and the numbers of vulnerable users, including pedestrians and more particularly the uncontrolled left hand turn, I have concerns that the billboard may result in a distraction for drivers which would negatively impact on the safety of users.
- 7.36 The NZTA submission cites a Traffic Engineering Systems (TES) study on reported pedestrian crashes at 585 signalised intersections and 1,679 left turn lanes in Auckland in 2019. The study identified that slip lanes have a higher rate of crashes (57%) compared to their frequency on the network (37%), mainly due to the presence of zebra crossings. Slip lanes with zebra crossings have a significantly higher rate of crashes (32%) compared to their frequency on the network (9%). Slip lanes with zebra crossings have a higher rate of crashes (52%) compared to other slip lanes (23%).¹⁸
- 7.37 Based on the data shared by NZTA as stated in paragraph 7.20 above I consider there to be clear evidence that the intersection already falls short of achieving appropriate safety standards for vulnerable users (pedestrians and cyclists). Therefore, any potential increased risk of distraction has not only a risk of increased accident but increased risk of more significant injury.

¹⁶ Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, Section 5, page 3

¹⁷ Affirm NZ Ltd, Consent Application RM230535, 332 Queen Street, Richmond, Review of Traffic Effects, Section 6, page 4

¹⁸ 018 NZTA submission paras. 17-18 page 3

- 7.38 The Carriageway ATM notes¹⁹ that *"In this instance, there are numerous existing advertising signs on this part of the roading network and so the separation distance is already not achieved. Rather, drivers will be well-used to seeing roading advertising signage in the area."*
- 7.39 I agree with this to a point, however, digital billboards are not particularly common feature within the Nelson Tasman Region and it does not appear there are any other digital billboards of a comparable size and at a comparable intersection within the Nelson Tasman Region. Therefore, in my view there is a higher risk of short-term distraction whilst motorists adjust to the new feature at the intersection and this may increase adverse effects on road safety even further, even if only for a limited duration.
- 7.40 In *Trilane Industries Ltd v Queenstown Lakes District Council*²⁰ the High Court held that temporary adverse effects should be assessed although they may be discounted if they fall within the permitted baseline or if proposed mitigation would reduce the extent of effect to minor from the outside. As noted above, I do not consider the permitted baseline is of relevance to this proposal, nor do I consider, from a traffic safety perspective the adverse effects of the billboard can be mitigated from the outset. Whilst image transition time can be controlled, I do not consider this would mitigate short term adverse effects associated with the 'novelty factor' of the billboard at the intersection.
- 7.41 However, notwithstanding my concerns over short term adverse effects, I also have concerns that in the longer term any distraction from the billboard has the potential for adverse effects which are more than minor. This is based on the specifics of the intersection and the location of the billboard.
- 7.42 The expert advice (from Mr Fon, the Carriageway ATM and NZTA) identify the intersection already has safety deficiencies, which coupled with increasing volumes of traffic, mean the intersection is a location where high driver focus is required.
- 7.43 Given these complexities and level of focus required, I consider any factor which decreases drivers' attention has the potential to be detrimental to their decision making and result in increased risk of accident and injury. That accident or injury could be significant, particularly for vulnerable users and particularly for users of the uncontrolled left turn lane at the Lower Queen Street leg of the intersection.

¹⁹ Carriageway Assessment of Transportation Matters Section 4.1.7

²⁰ *Trilane Industries Ltd v Queenstown Lakes District Council* [2020] NZHC 1647

7.1.1 Relevant TRMP objectives and policies

- 7.44 Chapter 11 relates to land transport effects and includes objectives and policies relating to the safety and efficiency of the transport network.
- 7.45 Objective 11.1.2 requires a safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied or mitigated.
- 7.46 Policy 11.1.3.1 promotes the location and form of built development, particularly in urban areas that:
- (a) avoids, remedies or mitigates adverse effects of traffic generation;*
 - (b) provides direct and short travel routes by vehicle, cycling and pedestrian modes between living, working, service, and recreational areas;*
 - (c) avoids an increase in traffic safety risk;*
 - (d) allows opportunities for viable passenger transport services to be realised;*
 - (e) provides a clear and distinctive transition between the urban and rural environments;*
 - (f) segregates roads and land uses sensitive to effects of traffic.*
- 7.47 Policy 11.1.3.4 seeks to *"avoid, remedy or mitigate adverse effects of traffic on amenity values."*
- 7.48 Policy 11.1.3.11 seeks to ensure that signs do not detract from traffic safety by causing confusion or distraction to or obstructing the views of motorists or pedestrians.

7.1.2 Traffic effects conclusions

- 7.49 I acknowledge that the goal of the RMA is not to require a nil effects outcome for activities, which in this case would be to ensure that the billboard did not result in any increase in road safety concerns, such as crashes. Given the inconclusive research there may be road environments where any adverse effects such as distraction from a billboard are acceptable in terms of the potential for effects on the safety of road users. However, in this instance, taking account of the specifics of the intersection, which has existing safety deficiencies, and which has the poorest safety performance of all urban intersections in the region, therefore requiring higher driver focus I consider adverse effects from the billboard would be more than minor.
- 7.50 Furthermore, due to the presence of vulnerable users and volume of traffic, including heavy goods vehicles the consequences of any distractions may have more significant consequences than at other locations, particularly in relation to the pedestrian crossing over the left hand turn lane on the Lower Queen Street leg of the intersection.
- 7.51 However, whilst the applicant has volunteered a transition time for images, I do not consider this sufficient to mitigate the potential adverse effects associated with the billboard on road

safety and overall, I consider the adverse effects remain more than minor due to the risk of accident and injury, particularly to vulnerable users of the intersection, particularly on the Lower Queen Street slip lane turn.

7.2 Issue - Amenity effects

- 7.52 The term “amenity values” is defined in [section 2 of the RMA](#), as those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.
- 7.53 Rule 16.1.4.2, matter of discretion (2) states “Any amenity effects on the surrounding area, including size and duration.”
- 7.54 In this instance I consider amenity effects to be predominantly associated with visual amenity i.e. the appearance of the billboard and advertising in the context of the surrounding environment, and light spill (light pollution).
- 7.55 Some submitters have raised other matters relating to amenity values, such as the social harm from advertising of particular material and products and content of advertising. These issues are also addressed below.

7.2.1 Visual Amenity

- 7.56 Adverse effects on visual amenity can encompass a reasonably broad range of issues, some submitters raised concerns in relation to adverse effects visual amenity generally others have included specific matters they are concerned about. This includes the following:
- a. Height of the sign above the roof peak / building parapet.
 - b. Obstruction of views of the Richmond hills, including Mount Malita.
 - c. Clutter and increased signage.
 - d. The fact that the sign and advertising material does not relate to the site.
 - e. Makes an existing low quality urban environment even worse.
- 7.57 The application is supported by an Urban Design and Visual Impact Assessment (**UDVIA**) prepared by DCM Urban Design Limited (**DCM**). DCM provided a UDVIA and Visual Package dated 1 August 2023 to support the original application for a static billboard. A further addendum dated 21 May 2024 which has an updated UDVIA dated 11 April 2024 appended was provided to support the amended application for the digital billboard. For clarity, in this report where I refer to the UDVIA I am referring to both the addendum dated 21 May 2024

and UDVIA dated 11 April 2024, this report and the visual package is provided at Attachment 9.

7.58 The Council has engaged Rough Milne Mitchell (**RMM**) to undertake an audit of the UDVIA. Mr Tony Milne of RMM has provided a review of the UDVIA which is provided at Attachment 10.

7.59 Generally, Mr Milne considers that the UDVIA is considered and balanced and I agree with this on the basis that the UDVIA appears comprehensive and to have considered a range of viewpoints. However, the RMM audit identifies a number of areas where there is a difference in opinion between Mr Milne and DCM regarding the manner in which adverse effects have been determined and assessed.

Integration into the receiving environment

7.60 The surrounding environment is generally defined by varying architectural scale and styles, with a mixture of retail, hospitality and small-scale commercial activity. In my opinion the lack of cohesive design in the receiving environment reduces the overall visual quality of the receiving environment. Furthermore, the intersection is a busy urban area with high levels of traffic, including heavy goods vehicles and various signage, such as road traffic signs and signs associated with the various activities. On this basis I agree with both Mr Milne and DCM that the character of the immediate receiving environment has a low-quality level of visual amenity.

7.61 However, I consider there are some redeeming qualities of the receiving environment which in my view have been underestimated by the UDVIA. In particular in relation to the views from Lower Queen Street and to a lesser extent the near views along Gladstone Road where there are views of the Richmond Ranges beyond the building. Queen Street is the primary commercial centre for Richmond and when viewed from Lower Queen Street the backdrop of the Richmond Ranges is an important visual feature in my view.

7.62 Currently the buildings framing the entrance to Queen Street at the intersection are of low form and although I acknowledge there is a permitted baseline to increase building height to 10 metres I consider this would have a different visual appearance than the proposed billboard.

7.63 In my view the location of the sign, on the building parapet does not relate to the building in any 'architectural' or visual form and therefore rather than integrating with the building and forming part of the roofline of the building, as the UDVIA states I consider the billboard will actually stand out as being distinct from the building. This will be particularly evidence in the view from Lower Queen Street.

- 7.64 I note that the long view of the site along Gladstone Road include the roofline of the building 55 McGlashen Road and I consider this does assist in mitigating the billboard from that viewpoint because it is seen against a backdrop of a building. However, there is no such mitigation when viewing the site from Lower Queen Street.
- 7.65 In this regard I agree with Mr Milne that the UDVIA understates the *"lack of integration of the billboard in the overall built form of the building upon which it being erected or the effect on the overall streetscape along Queen Street and SH6 intersection."*
- 7.66 As noted in paragraph 3.4 there is a reasonably high level of signage in the area, although signs are typically on the same site as the business they are advertising. There does not appear to be any offsite signage, with the exception of inclusion of the 'Black bull liquor' sign in the freestanding sign at 315 Queen Street. The assessment from DCM states that the digital billboard will be similar to other signage and billboards in the area²¹. Whilst there are other signs which are illuminated and other signs which are large (although I'm unsure whether they would fit the description of billboard) I disagree that the billboard would be similar to other signage.
- 7.67 The McDonald's sign is the only other 'above parapet' sign and the form and in my view design of that has a visual appearance of being an extension of the building. I consider the digital sign, will have an entirely different appearance to existing signage both in terms of its form, location, size and display.

Cumulative Effects

- 7.68 The UDVIA address the potential cumulative effects of signage but considers that as the receiving environment does not have a sensitive character or landscape values of high quality and varying signage is anticipated, the addition of the digital billboard will not be unexpected in the zone or pose additional adverse effects on visual amenity.
- 7.69 I agree that the area does not have a sensitive character or landscape values, however, I disagree that the billboard would necessarily be an expected feature of the zone given the size is significantly greater than anticipated by the permitted activity conditions, nor is the location or advertising content (third party material) permitted. Although I acknowledge a degree of signage, associated with businesses at the intersection would be anticipated.

²¹ DCM report page 9

7.70 The RMA definition of effect includes “any cumulative effect which arises over time or in combination with other effects”²². From this context the term cumulative effect encompasses two concepts – effects arising over time; and effects arising in combination with other effects.

7.71 In *Gargiulo v Christchurch City Council*²³ the Court described the concept of cumulative effects as “any one incremental change is insignificant in itself, but at some point in time or space the accumulation of insignificant effects becomes significant.”

7.72 In *Dye v Auckland Regional Council*²⁴ the Court of Appeal observed that cumulative effect is not the same as potential effect, based on the inclusion of potential effects separately within the definition. The Court concluded:

A cumulative effect is concerned with things that will occur rather than with something which might occur, that being the connotation of a potential effect...

The concept of cumulative effect arising over time is one of a gradual build-up of consequence.

The concept of combination with other effects is one-off effect ‘A’ combining with effects ‘B’ and ‘C’ to create an overall composite effect ‘D’. All of these are effects which are going to happen as a result of the activity which is under consideration.²⁵

7.73 I acknowledge and agree that the intersection is already cluttered with signage, however, in my opinion on the basis of the location and size of the sign the cumulative effect of this additional sign which displays third party advertising material, represents something of a tipping point in terms of the amenity values of the area.

Adverse Effects on Visual Amenity Values

7.74 There is no permitted baseline for additional signage of any size on the application site therefore any sign on the building would require a consideration of potential and actual adverse effects on amenity values through a resource consent process.

7.75 The UDVIA concludes that the proposed digital billboard will have less than minor effects on the visual amenity of the receiving environment as a result of both the low quality of the receiving environment and the mitigation measures proposed – that the image transition every 10 seconds with a 0.5 second fade between images and controls on lighting.

²² RMA 1991 Part 1, Section 3 Meaning of effect

²³ C 137/00

²⁴ [2002] 1 NZLR 337

²⁵ [2002] 1 NZLR 337 paragraph 38

- 7.76 The UDVIA also notes that the visual amenity effects will be limited to road users and the effects experienced will be temporary and intermittent. I accept that due to the nature of the environment views of the sign would be limited based on the time spent travelling towards and through the intersection, although this differs between the pedestrian / cyclist and vehicle experience.
- 7.77 As noted by Mr Milne the UDVIA appears to confuse magnitude of change with adverse effect. Further I agree with Mr Milne that the mitigation in relation to image transition and fade which DCM appears to rely on in relation to mitigating adverse effects relates only to the visual display of the sign and not the physical structure of the sign. As noted elsewhere in this report the billboard of a size and in a location which is well beyond what is anticipated by the TRMP and therefore, in my opinion it is not only the content of the billboard but the form and location of the sign that adversely affect visual amenity values.
- 7.78 In my opinion, balancing out the low quality of the receiving environment with the nature and location of the billboard adverse effects on visual amenity will be minor, particularly in relation to views from Lower Queen Street.

7.2.2 Light Spill

- 7.79 Nine submitters raised concerns in relation to the effects from light spill, the matters raised in the submissions are as follows:
- a. Difficulties monitoring luminance levels and light spill, limits on colours used at night, reducing size of sign and inclining it downward and/or shielding to avoid light emission into the sky suggested.
 - b. Increased and significant light pollution.
 - c. The effect on Tasman's dark skies, including the Wai-iti Dark Sky Park.
 - d. Effects on the estuary in terms of adverse effects on wildlife, fauna and bird life.
 - e. Increased exposure from light pollution will harm native bird life and damage astro-tourism.
 - f. Night time digital lights are an unwanted distraction, with glare on wet, shiny roads.
- 7.80 In relation to this application, matter of discretion (2) for rule 16.1.4.2 is, in my view, sufficiently general to allow for consideration of lighting effects. However, having reviewed the TRMP there are very limited rules relating to light spill and none associated with signage in the Central Business Zone, although the following rules include some permitted activity lighting requirements:

- a. Rule 16.1.4.1(d) requires that signs on sites adjoining the Residential Zone are only illuminated if the premises is open for business. As the application site does not adjoin a Residential Zone I do not consider this rule applicable.
- b. Rule 16.1.3.1(e) requires that any spotlight or floodlight is permanently fixed to be solely directed at the sign.
- c. Rule 17.2.2.1(k) requires that exterior lighting associated with activities within the Central Business Zone is directed away from adjoining residential properties and public places (which is assumed to include roads).

- 7.81 Further, there are some matters of discretion within the Residential Zone rules relating to light being directed away from adjacent residential properties and not interfering with road users and within the Mixed Use Zone there is a control on the maximum level of light spill (8 lux) measured at the boundary of a site within the residential zone.
- 7.82 In my view, without any clear performance standards or policy guidance it is difficult to understand what the TRMP anticipates by way of lighting effects within the Central Business Zone and how this might relate to wider light pollution, including the effects on dark sky values.
- 7.83 Whilst some submissions raise concerns about light pollution generally, others specifically raise a concern in relation to the effects on dark skies and in particular the Wai-iti Dark Sky Park.
- 7.84 The Council's Moutere Waimea Reserve Management Plan (**RMP**) includes, at section 5.12.1 a description of the location and values for the Wai-iti Recreation Reserve and also includes issues and options as well as policies for the management of the reserve. Maintenance of dark sky values are identified as an option and the RMP acknowledges the Memorandum of Understanding (**MOU**) Council entered into with the Top of the South Dark Sky Committee regarding the Dark Sky Designation over Wai-iti Recreation Reserve and Tunnickliff Forest. A copy of the MOU is provided at Attachment 11.
- 7.85 Policy 8 of the RMP articulates the Council's obligations under the MOU.
- 7.86 In his submission Mr Bradley (submission number 012) refers to and includes guidance from the International Dark-Sky Association (**IDA**) which is a nonprofit organisation based in the United States that is dedicated to preserving and protecting the natural nighttime environment. The IDA guidelines include recommendations for maximum nighttime luminance levels for Electronic Message Centres (EMCs) which are assumed to be comparable to a digital billboard within different lighting zones (LZs). My interpretation is that the application site would be within LZ3. The IDA recommendation for LZ3 is that nighttime maximum luminance levels are no greater than 80cd/m² in the LZ3 area.

- 7.87 I note that the Australian / New Zealand Standard for the control of the obtrusive effects of outdoor lighting (AS/NZS 4282:2023) also includes guidance for sky glow limits, although it is unclear to me how the guidance on luminance values within the standard would be applied to the site in relation to the Dark Sky Park.
- 7.88 The application site is located approximately 18 kilometres from the Dark Sky Designation Area. Further the site is located within an urban area, rather than on an urban periphery. As noted above the TRMP does not control lighting from buildings or signs within the Central Business Zone (other than spotlights or floodlights for signs which must be directed solely at the sign). Although consideration of lighting effects is a matter of discretion for this application the permitted baseline would allow for unlimited lighting on the building provided it is directed away from adjoining residential properties and public places and for signs directed solely at the sign.
- 7.89 On balance whilst I consider that protecting dark sky values is important and contributes to the cultural and social well-being of people and communities, it is unclear whether, on its own the billboard would increase the level of light pollution generated by Richmond as an urban area to a degree which may adversely impact on the dark sky values.
- 7.90 It is possible to control the levels of luminance from the billboard and it may also be possible to undertake measures to shield light from above thereby reducing the effects of skyglow from the billboard. I understand the applicant has shared analysis and comments from their expert, Mr Kern, with submitters in relation to measures which could mitigate the effects of light pollution on dark sky values.
- 7.91 I have reviewed this information, and draft conditions circulated 'without prejudice' by the applicant and consider that there are measures proposed in those conditions and recommended by Mr Kern which would mitigate the adverse effects of light spill from the billboard. I recommend that these measures are included as conditions of consent.
- 7.92 In relation to light spill and pollution more generally, I acknowledge that increasing light pollution / light spill could adversely affect amenity values, and road safety as a result of increased glare on wet roads. However, I consider that in the context of the receiving environment these adverse effects are likely to be less than minor given luminance levels from the billboard can be adequately controlled via conditions of consent.

7.2.3 Other Amenity Effects

- 7.93 A submission was received relating to the social harm which can arise from advertising.
- 7.94 I recognise the purpose of the RMA is to manage development and the use of land in way which enables people and communities to provide for their social and cultural well-being and this is a broad purpose. District Plans generally include limits on signage in relation to

their location, size, relationship to the activity undertaken onsite and other matters such as visual display, letter size etc, to manage the adverse effects from signs and therefore, give effect to the purpose of the RMA.

- 7.95 However, I have not come across any District Plan which includes provisions to control the content of signs in terms of the material advertised.
- 7.96 Instead, I note that the Advertising Standards Authority (ASA) regulates advertising in New Zealand by the ASA codes which focus on six sectors where advertisers are expected to take particular care – alcohol, children, food and beverages, finance, therapeutic and health and gambling. The ASA develops the codes, and also has a complaints process, which sit within the legal framework provided by other Acts and Regulations that restrict advertising, including the following:
- a. Fair Trading Act
 - b. Medicines Act
 - c. Gambling Act
 - d. Sale and Supply of Alcohol Act
 - e. Smokefree Environments Act
 - f. Prostitution Reform Act
 - g. Electoral Act
 - h. Financial Markets Act
- 7.97 Therefore, I consider that the content of advertising is adequately managed through those other legislations and regulated by the ASA and that it is not appropriate for this resource consent to seek to further control, without duplicating the requirements of other legislation, the content of advertising on the billboard. However, to ensure that the Consent Holder is aware of their obligations in relation to advertising standards I recommend an advice note included on any resource consent to advise that any content displayed on the billboard should be in compliance with the Advertising Standards Authority Advertising Code of Practice.

7.2.4 Relevant TRMP objectives and policies

- 7.98 Chapter 5 of the TRMP relates to Site Amenity Effects and includes objectives and policies in relation to adverse off-site effects, amenity values, visual and aesthetic character, and health and safety. The following are considered to have particular relevance to the proposal:
- 7.99 TRMP Objective 5.2.2 seeks to achieve the “maintenance and enhancement of amenity values on site and within communities through the District.”
- 7.100 TRMP Policy 5.2.3.11 relates to signage and enables signs subject to safety, access and visual considerations. In my opinion the proposed sign does not necessarily maintain or enhance

the amenity values of the site but further degrades an area with already relatively low levels of visual amenity.

- 7.101 Objective 5.1.2 "Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources."
- 7.102 Policy 5.1.3.9 requires activities avoid, remedy or mitigate the effects of a range of matters beyond the boundaries of the site generating the effect. Of relevance to this application is the requirement to avoid, remedy or mitigate the effects of glare.
- 7.103 Objective 5.2.2 "Maintenance and enhancement of amenity values on site and within communities throughout the District."
- 7.104 Policy 5.2.3.5 seeks to "promote amenity and convenience for people in commercial areas."
- 7.105 Policy 5.2.3.9 To avoid, remedy or mitigate the adverse effects of signs on amenity values.
- 7.106 Policy 5.2.3.11 To enable a range of signs in commercial and industrial areas, subject to safety and access needs and visual considerations. Considerations relating to traffic safety and visual amenity are considered above.
- 7.107 Chapter 6 relates to urban environment effects and includes objectives and policies which provide direction on how urban environments are to be developed, including managing urban growth and the urban, rural interface. I do not consider there are any policies which are directly relevant. Policy 6.7.3.4 seeks a "*consistency in the design and appearance of signs at the entrance to settlements*" and there could be an argument the billboard location is at something of an 'entrance' to Richmond given the significance of the intersection. However, reviewing Section 6.7.30 'Principal Reasons and Explanations' it is apparent that the intention of the policy is to direct outcomes for "welcome" signs at the entrance to town. Therefore, I do not consider the policy to be relevant to this proposal.

7.2.5 Amenity effects Conclusion

- 7.108 In terms of light pollution I consider any adverse effects from the billboard should be considered in the context of the receiving environment which includes multiple light sources.
- 7.109 Overall, I consider that the light effects from the billboard could be appropriately controlled through conditions of consents which would manage the levels of luminance displayed by the billboard during hours of darkness and which could also manage upward light spill.
- 7.110 Recommended conditions of consent relating to management of luminance levels and light spill are provided within Attachment 2.

- 7.111 In relation to other amenity effects raised by submitters I consider these are best managed through other means and legislation, although it is recommended to include an advice not to draw the consent holder attention to their obligations to meet the requirements of the Advertising Standards code of practice.
- 7.112 In relation to visual amenity effects, I have considered both the UDVIA and audit from RMM as well as relevant TRMP objectives and policies.
- 7.113 In case law *Gabler v Queenstown Lakes District Council* [2017] NZHC 2086 Davidson J considered that the term “less than minor” means an effect that in “the overall context” is insignificant and one which is so limited that it is objectively acceptable and reasonable in the receiving environment and to a potentially affected person.²⁶ Whether something is acceptable or reasonable is something of a subjective matter.
- 7.114 The overall context is a busy intersection with a range of existing signage and relatively low amenity values, although I consider that the views to the Richmond Ranges beyond the buildings, and the low form of the buildings do assist in offsetting some of the functional, low amenity value of the intersection. The wider views therefore form the ‘overall’ context in my opinion. The use of words ‘insignificant’ and ‘so limited’ are, in my view, important in the context of this application in relation to visual amenity. As noted above, the fundamental purpose of the billboard is to advertise and this can only be achieved by people looking at the sign, i.e. having attention drawn to the sign.
- 7.115 I acknowledge the UDVIA assessment of the magnitude of change and the corresponding conclusion of adverse effects being less than minor. However, in my view the mitigation measures are insufficient to mitigate the visual effect of the billboard in terms of its form and location. I agree with Mr Milne that the UDVIA has not differentiated between magnitude of change (the conclusion for which is based on the low quality of the receiving environment) and the adverse effects on the visual amenity of the environment.
- 7.116 Taking account of case law and the RMM assessment I cannot reach a conclusion that the effects of the billboard, given its size, location and digital display are ‘insignificant’ or ‘so limited’ that they would be objectively acceptable or reasonable in the receiving environment.
- 7.117 For these reasons I consider that the proposed billboard will have a minor adverse effect on the visual amenity values of the receiving environment, and I struggle to understand how adverse effects could be mitigated because the very purpose of the billboard is to draw attention which is related to its form and location.

²⁶ *Gabler v Queenstown Lakes District Council* [2017] NZHC 2086 paragraph 94

8 Part 2

- 8.1 The consent authority “must have regard to the provisions of Part 2 when it is appropriate to do so.”²⁷ In *Davidson v Marlborough District Council* found that “*there may be situations where it would be appropriate and necessary to refer to Part 2 when considering consent applications, including where there is doubt that a plan has been “competently prepared” under the RMA*”.²⁸ In other words, where a district or regional plan has been prepared having regard to Part 2 and contains clear, prescriptive and qualified policies and objectives, there is no need to have recourse to Part 2 as this would add little value. However, where a plan does not appropriately consider Part 2 and/or contains conflicting objectives and policies, Part 2 can be considered.
- 8.2 In short, recourse to Part 2 is appropriate in certain circumstances, including:
- a. If the relevant higher order policies of an NPS are equivocal and it is unclear from them whether consent should be granted or refused; or
 - b. If the TRMP as the relevant plan has not been competently prepared in accordance with Part 2, or if there is some doubt about that.
- 8.3 In this instance:
- a. The TRMP is considered to have been competently prepared to promote the sustainable management of natural and physical resources in accordance with Part 2
 - b. Although the TRMP was prepared in the 1990s and has not yet undergone a comprehensive review and the objectives and policies are not entirely clear and directive they are considered to provide sufficient direction for the purposes of this application.
- 8.4 Therefore, given the above I do not consider it necessary to assess the proposal against Part 2.

9 Summary of key issues and recommendations

- 9.1 The application for the digital billboard is a restricted discretionary activity under the TRMP so the consent authority must consider the application in accordance with sections 104 and 104C of the Resource Management Act 1991.

²⁷ *RJ Davidson Family Trust V Marlborough District Council* [2018] NZCA 316 [21 August 2018]

²⁸ *Simpson Grierson* (2015) Court of Appeal decision confirms relevance of Part 2 to consent decision-making, published 21 August 2018

- 9.2 As set out in Section 7 of this report I consider the primary issues associated with this application to be traffic effects and amenity effects, including visual amenity and light spill.
- 9.3 In respect of light spill (light pollution) I consider that conditions of consent could adequately mitigate any adverse effects of light spill on the surrounding environment and light pollution on dark sky values, particularly those at the Wai-iti Dark Sky Designation Area.
- 9.4 In respect of visual amenity, I have some concerns that the billboard does not appropriately integrate with the building due to its placement on the parapet and this is particularly evident in the views from Lower Queen Street where the site is viewed against a backdrop of the Richmond Ranges. I do not consider, from this viewpoint it is possible to mitigate the form of the billboard and that the mitigation measure proposed by the applicant relates only to the images on the billboard not its physical structure, which from my perspective is part of the concern. Overall, therefore I consider adverse effects on visual amenity are minor and are not able to be mitigated to lower the adverse effects, particularly in relation to views from Lower Queen Street.
- 9.5 However, the primary concern I have with this proposal is in relation to traffic effects, particularly in relation to the Lower Queen Street intersection leg, including the uncontrolled left turn lane. As acknowledged at paragraph 7.48 the RMA does not require a nil effects outcome, however, I am concerned that despite inconclusive research around the risks of distractions from billboards there are existing safety deficiencies and complexities at the intersection which present an existing challenging environment for drivers, pedestrians and cyclists. Meaning anything which has a risk of distracting users of the intersection has the potential to result in more serious consequences. I have considered whether there are options to mitigate the billboard and do not consider any suitable mitigation has been provided as part of the application.
- 9.6 I acknowledge the advice of Mr Fon in his Traffic Review report and have also considered the assessment within the Carriageway ATM and the matters raised by submitters. Taking account of the concerns I have regarding the potential risks and outcomes should users of the intersection be distracted by the billboard and the lack of mitigation so far presented I recommend that the application is **DECLINED**.
- 9.7 The above opinion is based on the application and information provided to date, however, I retain an open mind to subsequent evidence.
- 9.8 However, notwithstanding the above draft recommended conditions for the application are contained in Attachment 2 should the Commissioner be minded to grant consent after considering the evidence from all parties.