ISSN NO. 0114 - 2720

COMMERCE COMMISSION

DECISION NO. 285

Determination pursuant to the Commerce Act 1986 (the Act), and in accordance with a delegation given in terms of s 105 of the Act, in the matter of an application for clearance of a business acquisition involving:

WILSON PARKING NEW ZEALAND (1992) LTD

and

WELLINGTON CITY COUNCIL

The Commission: Peter Allport (Chairman of Division)
Roger Taylor
Joseph Auton

Summary of Proposal: That Wilson Parking New Zealand (1992) Ltd acquire the freehold of the James Smith Carpark, the Lombard Carpark and the Marion Street Carpark and the 10 year management rights of the Clifton Terrace Carpark.

Determination: Pursuant to s 66(3)(b) of the Act, the Commission determines to decline to give a clearance for the acquisition.

Date of Determination: 18 March 1997

AUT/BA - W/12/1
M2328

MEMORANDUM

To:	Peter Allport (Division Chairman) Roger Taylor Joseph Auton	
From	John Preston	Jo Bransgrove
Date:	17 March 1997	
Subject	**Commerce Act 1986: Business Acquisition Wilson Parking New Zealand (1992) Ltd/Wellington City Council**	

Working Day 8: 14 March 1997 **Working Day 10: 18 March 1997**

Confidential information in this report is contained within square brackets.

THE PROPOSAL

1 Wilson Parking New Zealand (1992) Ltd (Wilson) has sought clearance to acquire the freehold of three carparking buildings owned by the Wellington City Council (WCC) and the 10 year management rights of a fourth carpark operated by the WCC. The WCC has offered the four properties for sale by tender.

2 The four businesses are the James Smith Carpark (747 bays), the Lombard Carpark (332 bays), the Marion Street Carpark (195 bays) and the Clifton Terrace Carpark (815 bays).

PROCEDURES

3 The notice was registered on 4 March 1997 under section 66 of the Commerce Act 1986 (the Act). Section 66(3) of the Act requires the Commission to give clearance for the proposal within 10 working days, unless the Commission and the person who gave the notice agree to a time extension. A decision on the notice is due by 18 March 1997.

THE PARTIES

Wilson Parking New Zealand (1992) Ltd

4 Wilson Parking is owned equally by Wilson Parking Holdings Pte Ltd and Roturbo Ltd, two companies incorporated in Singapore. The shares in these companies are owned by the Kwok family, the members of which are also the major shareholders in Sun Hung Kai Properties Ltd, a large listed Hong Kong property company.

5 Wilson Parking operates parking sites in a number of New Zealand cities, including Wellington. The company's parking interests were expanded recently by its acquisition of the parking business of Mainzeal Property and Construction Ltd which also operated parking facilities in several cities, including Wellington. That acquisition was cleared by the Commission on 19 December 1996.

Wellington City Council

6 The WCC controls on-street parking in its territory, in addition to operating a number of off-street parking sites. As a local authority, the Council's policies on approvals for building construction can significantly influence the private provision of new parking facilities.

THE MARKETS

7 In the Commission staff report on the Wilson Parking/Mainzeal proposal the relevant markets were defined as the separate provision of short-stay and long-stay public carparking sites in eight geographical locations, one of which was Wellington.

Geographic market

8 In the present proposal the applicant defines the geographic market as the central business district (CBD) and neighbouring commercial area of Wellington. We consider that this correctly outlines the relevant geographic market, but we consider also that closer definition of its scope is required.

9 The CBD of Wellington does not have a legal definition, and there are differing perceptions of its boundaries. A major commercial real estate company considers it to be bounded by Bunny Street (in front of the Wellington Railway Station) and Bowen Street to the north, by the Terrace and the Motorway to the west, by Dixon Street to the South and by Cuba Street and the waterfront to the east. In our view, the extent of the relevant geographic market is larger than this.

10 An appendix to the proposed Wellington District Plan, which was issued in July 1994, outlined an “inner parking sector” and an outer parking sector” for central Wellington. A map showing these two sectors is attached as an Appendix. The inner parking sector is equivalent to the CBD described in the previous paragraph, plus Courtenay Place and its adjoining streets and the section of Thorndon to the east of the motorway. The outer parking sector comprises the remainder of the Te Aro flat, slightly to the east of Kent Terrace in the east, to the Basin Reserve in the south and to the top of Willis Street in the west.

11 We do not consider it possible to draw ‘bright line’ boundaries to the geographic market, because the distances motorists consider it acceptable to walk vary

considerably, and because the mix of possible parking places varies according to the motorists destination. In our view, the two sectors in the District Plan describe the maximum extent of the geographic market, and we consider it to be the appropriate definition.

Product and Function Markets

12 The markets we consider relevant are those for the provision of casual car parking space, which may be on or off street. We exclude from our definition parking spaces used by the owners or tenants of buildings on a continuing basis, and parking spaces which are committed under long term lease arrangements such as monthly or annual leases.

13 The report on the Wilson Parking/Mainzeal proposal concluded that there were separate short term and long term product and functional markets for parking. In the present notice the applicant again proposes that there is a single product and functional market. We acknowledge that many parking facilities are available for both short term use (e.g. one to two hours) and for all day use, and that suppliers can react immediately to changes in the relative size of each category. However, many parking places do not have this flexibility. In particular, metered parking in the CBD, which is a significant element in the total supply of parking spaces, is subject to maximum lengths of stay, generally of two hours or less. Some free on-street parking is available also, but this generally allows relatively short stays e.g. 5 minutes or 30 minutes. There are also loading zones which are not available for the general public. Parking places subject to such limitations are not substitutes where motorists require parking beyond the prescribed maxima, and in our view this justifies defining separate short-stay and long-stay markets.

Conclusion on Market Definition

14 We consider that the relevant markets are those for the provision of public non reserved short term parking facilities in the inner and outer parking sectors of central Wellington, as defined in the Proposed Regional Plan, and the provision of public long term parking facilities in the same locality.

COMPETITION ASSESSMENT

15 Were this proposal to be implemented, it would result in aggregation of market shares in both relevant markets.

16 Wilson Parking is by far the largest provider of off-street parking in Wellington. The only other substantial providers are the WCC and Condrens Car Parks International Ltd (Condrens). The WCC also provides on-street metered, restricted and coupon parking.

17 Wilson Parking provided estimates of market shares for total parking, short stay parking and long stay parking. These figures indicate shares, were the proposal to proceed, of [ ], [ ] and [ ] respectively. However, we consider that these estimates substantially understate Wilson Parking's market share because they give too large a place to coupon parking and to the availability of parking by other building owners. In any case, as indicated above in relation to market definition, we do not consider that there is a single parking market.

18 Coupon parking is on-street parking which is available in city fringe and close suburban areas. Relatively little of the coupon parking zone appears to be within the relevant geographic market, where on-street parking is mainly subject to parking meters or other restrictions. The zone extends as far as the

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Karori Tunnel, the top of the Brooklyn Hill, John Street, Mount Victoria and Point Jerningham. In the coupon parking zone motorists may park for up to three hours without charge, but for longer stays they must display a coupon which costs $3 for a day. (Within the zone there are many resident parking sections, which are not available for use by others.)

19 The WCC provided the following estimates of the number of coupon parking places.

Clifton	267
Kelburn	738
Mount Cook	938
Mount Victoria and Oriental Bay	1,531
Te Aro	759
Thorndon	1,437
	5,670

Wilson Parking has used a figure of 3,000 coupon parking places in its calculations. We consider the number to be smaller. That is, the first four districts in the table above are not in the geographic market. Most, but not all, of Te Aro would be within the geographic market, as would a good deal of Thorndon. However, that part of Thorndon which is west of the Motorway is outside the geographic market.. Our estimate of the number of coupon parking places in the geographic market is that the range is likely to be, say, 1,500 to 2,200.

20 We consider that while the existence of the coupon parking outside the geographic market provides an alternative for some motorists, relatively little weight should be given to it. In addition to local users of the zone, some

commuters are clearly willing to walk an often considerable distance to and from a parking place in the zone to their place of employment. However, for many motorists the distance and time involved would be such that they would not regard the zone as a substitute for a more central parking location. Consequently, the constraint provided by the zone outside the geographic market, on the price and service quality of centrally located parking facilities, would be limited.

21 Another possibility for motorists would be for them to park their cars in a suburban area, e.g. near a suburban railway station or a bus stop and then take a train or a bus into the city. However, while some people do this, we do not consider that use of a combination of transport forms provides a satisfactory substitute for more than a limited number of motorists.

22 Wilson Parking's estimate of the places provided by "Others" was [ ] ([ ] sort stay and [ ] long stay). The applicant stated that the estimate was based on the number of parking spaces in other buildings, reduced by an assumed 50% to allow for spaces which are reserved for tenants or building occupants. We contacted the parking managers of each of the six organisations quoted by the applicant in paragraph 9.2.3 of the notice, and of one other organisation. The results of these enquiries are summarised below. They do not confirm that a significant number of spaces is likely to be available to the public in terms of the market definitions we consider relevant.

23 The manager of the BP on the Quay parking building (Collier Jardine) said that the approximately 500 parking places in the building are owned by a number of owners. No casual parking is available (except on Saturday mornings) and the normal term for rental agreements is one month. Some places are used by the owners.

24 Parking in the Morrison Morpeth (now Morrison Kent) Building is managed by Trans Tasman Properties Ltd. No casual parking is available, and 40 of the 130 places are part of long term leases for office space in the building. All of the other 90 places are used by people working in the building.

25 National Mutual manages the parking in its buildings at numbers 70, 80 and 111 The Terrace. At numbers 70 and 111 all of the parking places are allocated to tenants of the two buildings. At number 80 the places are allocated to National Mutual staff. There are no places available for the public.

26 Sun Alliance Insurance Ltd has about 90 parking places available in its building on The Terrace. Approximately half of these are allocated to Sun Alliance staff and to tenants of the building, while the remaining places are used by others. All of the latter places are occupied on 12 month licences for which there is a high renewal rate. No casual parking is available and there are no unallocated spaces.

27 The Farmers department store building has 70 parking places available, and about 65 of these are available for casual parkers. The company’s charges favour short-stay parking (up to three hours), and longer stays incur a substantially higher rate (for up to three hours the charge is $2.50, but for up to four hours it is $8 plus $2 for each additional hour.

28 Computer City (Noel Leemings) in Tory Street has a parking area which it shares with an adjoining retailer, Levenes. The area is intended for shoppers at the stores, and not for long stay parking.

29 The manager of 113 parking places in the Ministry of Commerce Building (Trans Tasman Properties) said that 78 of the places are used by the Ministry, while the balance is used by other tenants. No places are available to the public.

30 While the above organisations represent only a selection of the numerous buildings in Wellington, they did cover the examples given by the applicant. The

results suggest that there may be significant limitations in the availability of parking places to those not associated with the buildings concerned, and that terms of one month or longer are typical for places which could be available to others. The results also suggest that there could be limited availability of short-stay parking in such buildings, except for shopper parking provided by individual firms. While there might be some parking available to the public from other providers, in relation to the market definition we consider appropriate, it has not been possible to ascertain the likely number of places or their division into short and long stay parking. Because of this we consider that little weight can be attached to this source of parking places.

Short-stay market

31 In this market the principal providers would be Wilson Parking and the WCC's metered or otherwise restricted on-street parking. Condrens would have a relatively small share, and, as indicated above, other providers seem unlikely to provide any significant number of places. A small number of retailers provide parking spaces alongside or in their premises for shoppers, but the total number of such places would not be large.

32 Approximate market shares are shown in the following table.

Wilson Parking	[ ]	
WCC - Parking Buildings and Clifton Terrace	[ ]	(Wilson estimate)
WCC - metered places	2,730	(WCC estimate)
WCC - on-street 'pay and display'	500[1]	
WCC - free, restricted parking places	200	(WCC estimate)
WCC - coupon parking		(number used for short-stay parking unknown)
Condrens	[ ]	(Wilson estimate)

[1] *Core Service Review: Off-Street Parking Activities*, Wellington City Council, April 1996

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Other providers	(not known, but assumed to be small)

33 As noted above, there is no data on the division of coupon parking between short-stay and long-stay use, and the extent to which coupon parking places are effective substitutes is reduced by their fringe location within the geographic market. However, if it is assumed that up to several hundred coupon places are used for short-stays, Wilson Parking's market share would be in the range of 40 to 46%, were the proposal to proceed. The WCC would provide most of the balance, with Condrens providing about 7%.

34 A WCC survey quoted in its April 1996 report revealed that about one-third of metered parking spaces were being used by commuters on an all-day basis, contrary to the purpose of the two hour time restriction. However, the subsequent relatively substantial increase in hourly meter charges has greatly reduced their use by commuters, and a high proportion are now available for the intended short term use. Were the proposal to proceed it appears that motorists will continue to have a satisfactory alternative for short-term parking, and dominance in this market seems unlikely.

Long-Stay Parking

35 The availability of long stay parking is shown in the following table.

Wilson Parking	[ ]
WCC - parking buildings & Clifton Terrace	[ ]
WCC - coupon parking	1,500 to 2,200
Condrens	[ ]
Others	(unknown, but assumed to be small)

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36 Because the above table includes a range for coupon parking spaces, and does not estimate a value for ‘others’, exact market shares cannot be calculated. The range of market shares, however, appears likely to be 70 to 75%.

Conditions for entry and expansion

37 A major influence on the likelihood of additional off-street parking being provided by the private sector is the policy of the WCC. The transport strategy which has been adopted by the WCC and by the Wellington Regional Council aims at capping the level of commuter traffic to what can be handled by the existing road network. The strategy involves limiting the development of commuter parking facilities in central Wellington.

38 Section 13.1.17.1 of the proposed District Plan states that activities in the Central Area are not required to provide on-site vehicle parking. Where parking is to be provided, there are maxima of 1 space per 200 square metres of gross floor area in the Inner Sector, and 1 space per 150 square metres of gross floor area in the Outer Sector. This reverses the previous policy which required developers to provide a designated minimum number of parking places. Any development which involves the provision of more than 70 parking spaces is classified as a ‘discretionary’ or restricted activity, and any proposals must include a detailed traffic report. The purpose of this restriction is stated in the Proposed Plan to be to avoid ‘larger developments in the Central Area which generate significant vehicular traffic (or which) may cause congestion or affect the safe or efficient movement of traffic on the street’.

39 The proposed District Plan includes provisions in section 13.4.2 aimed at minimising the creation of vacant land through building demolition. This policy is likely to diminish the number of sites which could be used for parking projects in the future.

40 The likely effect of the policies outlined above is to make it more difficult for developments involving the provision of significant numbers of parking places to gain planning approval.

41 While the proposed Stadium project near the Wellington Railway Station would include a substantial number of parking places, these would be intended principally for those attending activities at the Stadium. In addition, the likely time scale for this project means that it would not be appropriate to take it into account in relation to the present proposal. The applicant has referred to three other projects which are under planning consideration: one for 100 places in the Midland development, another for 100 places in the Ghuznee Street and another for 200 in Chaffers Street. Even if all three projects come to fruition within the next two years, the total number of places which they would provide would not have a large impact on the market. The Midland development is aimed primarily at meeting the needs of the building's tenants, but we do not know of the extent to which places in the other two projects are likely to be available to the public.

42 We conclude that there is limited scope for the construction of new parking buildings or mixed-use buildings, and that there is also only limited scope for expansion by existing operators.

OVERALL CONCLUSION

43 We conclude that we are not satisfied that the proposal would not result, or would not be likely to result in any person acquiring or strengthening a dominant position in the markets for the provision of long-stay non-reserved public carparking sites in Wellington.

RECOMMENDATION

43 We recommend that you decline to give clearance to the proposal under s 66(3)(b) of the Act.

Chief Investigator Manager

DETERMINATION ON NOTICE OF CLEARANCE

We agree/disagree with the recommendation.

We are satisfied/not satisfied that implementation of the proposal would not result, or would not be likely to result, in any person acquiring or strengthening a dominant position in a market.

Accordingly, pursuant to s 66 (3) (b) of the Commerce Act 1986, we hereby decline to give clearance for Wilson Parking New Zealand (1992) Ltd to acquire the James Smith, Lombard, Marion Street and Clifton Terrace carparks from the Wellington City Council.

Dated at Wellington this day of 1997

Peter Allport Division Chairman	Roger Taylor Member	Joseph Auton Member

The Seal of the Commerce Commission
was affixed hereto in the presence of:

Peter Allport
Deputy Chairman of the Commission

Date: / /1997