

Resource Management Act 1991

**Application for Resource Consent No RMA/2017/1354 - 617-649 Colombo Street, Christchurch
City - Establish a digital screen billboard on a building**

Notice of Decision by David Mountfort, Hearings Commissioner

Summary of Decision

That the application be declined

Application Reference:	Land Use: RMA/2017/1354
Applicant:	Calder Stewart Development Limited
Site address:	617-649 Colombo Street, Christchurch City
Legal Description:	Pt Sec 1011, Lot 1 DP 46489, Pt Sec 1009, Lot 1 & 2 DP 7723, Lot 1 DP 11059, Pt Lot 1 DP 7302, Lot 2 DP 7302, Lots 1-4 DP 13211, and Lots 3 & 4 DP 495453
Proposal:	Establish a digital screen billboard on a building
Zoning:	Commercial Central City Business
Overlays and map notations:	Floor Level and Fill Management Area, Central City Core, Liquefaction Management Area, Central City Building Height 28m and Category 3: Lower Noise Level Area
Activity status:	Discretionary
Submissions:	20 (including two late submissions)
Date of Hearing:	22 May 2018

Introduction

1. This is an application to establish a large digital screen billboard on a building in the Christchurch central city. The application has been processed on a publicly notified basis.
2. I have been appointed by the Christchurch City Council to hear and decide the application and submissions.
3. The site comprises the entire frontage of a central city block on the eastern side of Colombo St, between Lichfield St and Tuam St, and also has frontages to Lichfield and Tuam Streets. The proposed sign would be at the Lichfield and Colombo St corner, wrapping around the corner of the building.
4. The main features of the proposed development are as follows:
 - A digital screen billboard would be established for general advertising and information sharing on the Lichfield Street/Colombo Street corner of the new 'EntX' building located at 617-649 Colombo Street, Christchurch City. This 3 storey building is currently under construction and will contain a multiplex cinema complex and dining precinct.
 - The display would measure between 9.435m and 10.703m in height by 11.986m in length (7.561m along the Colombo Street elevation and 4.425m along the Lichfield Street elevation, including a screen curvature). Based on these measurements the sign would have a total area of approximately 103.5m². The sign would curve around the corner.
 - The base of the sign would be approximately 8.2m to 9.8m above street level with the top of the sign to be approximately 19m above ground level.

- The sign would display both static and moving video images, for the purpose of general commercial advertising and also public and community information. The content would not be confined to activities taking place at the ENTX building.

Existing environment

5. The site is a prominent location close to the Centre of the Christchurch Central Business District. This area is redeveloping after the Canterbury Earthquakes and contains a number of major new buildings nearby, including the Central Christchurch Bus Interchange on the opposite side of Colombo St, the new Justice and Emergency Services complex immediately to the west in Lichfield St, and existing and new retail premises on both sides of Colombo St to the north. Two large new parking buildings are nearby in Colombo and Lichfield Streets. To the east are a mixture of existing buildings and sites still awaiting redevelopment along Lichfield St. Further to the east at Manchester St is the South Frame, which is to contain a high density inner city residential complex, an anchor project under the Christchurch Recovery Plan.

The submissions

6. 14 submissions in support, 1 neutral submission and 4 submissions in opposition were lodged and accepted. These included a submission received four working days after the close of submissions. A decision to waive the time limit under section 37 of the Act for making a submission was made by a Council officer under delegated authority.
7. A second late submission was received 20 working days after the close of submissions. A decision to waive the time limit under section 37 of the Act for this submission was declined by me on 18 April 2018.
8. These submissions are summarised below.

The hearing

9. I conducted a hearing at the Council offices on 22 May 2018. The following people appeared at the hearing:

Applicant	Mark Christensen, Legal Counsel Stuart Pearson, lighting expert witness, Clinton Bird, Urban design expert, Mark Weaver, applicant's representative, Ray Edwards, Transport expert Michael McAler, Media Company representative
Submitters	Lauren Semple, Legal Counsel for AB Investments Ltd Stephanie Styles, expert planning witness
Christchurch City Council	Hanna Afifi, expert planning witness and section 42A report writer David Hattam, urban design expert

10. I also received a report, as part of the section 42A report, from Mr John Lonink, a Council urban designer, who was unable to appear on the day due to illness. Mr Hattam appeared on the day in his place, presented a short statement substantially in agreement with Mr Lonink's report and answered questions. I express my appreciation to all the experts for the clarity of their evidence, but particularly to Mr Hattam because of the very short notice he must have received and the way he was still able to fully engage with the case.
11. At the end of presentations, the hearing was adjourned to allow the applicant to present closing submissions in writing, which were received on 1 June 2018. I closed the hearing on 6 June 2018.

The planning framework

12. Before discussing the application and the planning framework in detail it is necessary to describe what is known as the "permitted baseline". This is a legal principle, set out in section 104 (2) of the Resource Management Act 1991. Under this, when deciding a resource consent, "*a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.* It is necessary to establish what permitted non-fanciful activities could occur on this site, then compare the adverse effects of what is actually proposed with the effects that could be created as of right. In other words it is only the incremental effects over and above those permitted as of right that are relevant to this enquiry.
13. In her report., Ms Afifi discussed the permitted baseline as follows

38. No signage is permitted above a height of 9m. As noted in the Activity Status section above, other than the identification of locations of future signs (other than the digital billboard proposed as part of this application) no detailed signage has been approved or assessed in a previous resource consent, and no signage has been established on the building. Therefore, I have determined that at this time, the total permitted area of signage for the entire building remains at approximately 95m².

39. Given the proposed use (including a three level cinema and food precinct) and the road frontage length of the EntX building, a non-fanciful permitted baseline would include a number of individual signs, over the building facades, up to a total area of 95m². This is supported by the information provided to date in the resource consent applications relating to the building, which identify locations for future signage. The individual signs would be significantly smaller in area than the sign proposed, on the basis that they are likely to be designed to be located over the full extent of the building frontages, to provide advertising for the various activities on site, as anticipated for a cinema complex with a food precinct.

40. Signs in the zone are permitted to be illuminated and therefore could be externally or internally illuminated provided they complied with rules relating to glare. However, the permitted baseline does not include digital signs or those with changing images, flashing or signs that are intermittently illuminated.

41. In my opinion there is no reason why the discretion available under Section 104(2) of the Act to disregard the adverse effects of those non-fanciful permitted activities outlined above, should not be exercised in this case.

14. I accept and adopt that description of the permitted baseline and note that the two Council urban designers adhered to that in their assessments. I consider there is no permitted baseline with which to compare the effects of this sign, because any permitted baseline digital sign would have been, smaller, lower and confined to content reflecting activities on the site. It would even be fanciful to consider that a single complying sign of 95m² would be located at this location, given the obvious need for additional signage for businesses in the building.

15. Rules

16. There are a number of infringements of various rules of the Christchurch District Plan. These are set out in Ms Afifi's report, which I reproduce for convenience.

22. The proposal requires resource consent under the following rules in the District Plan:

The proposal is a discretionary activity in the Christchurch District Plan under the following rules:

Rule 6.8.4.1.4 D1 for a sign that is not provided for in Rule 6.8.4.1.1 P11 or P15, Rule 6.8.4.1.3 RD2, RD3 or RD5, or Rule 6.8.4.1.5 and is (a) Off-site and (b) contains changing images/digital.

23. It is also noted that the proposal breaches the following Built Form Standards outlined in Chapter 6.8.4.2.

Rule 6.8.4.2.4 Signs attached to buildings – The sign exceeds the maximum permitted area for signage for the entire building being 103.5m² in area, where a total signage area of 95m² is permitted based on a 190m² primary frontage. In addition the sign is higher than the maximum permitted height of 9m.

17. Overall the proposal must be considered as a discretionary activity under the Christchurch District Plan.

The Submissions

18. Ms Afifi summarised the reasons for the submissions as follows:

28. The reasons for the neutral submission are summarised as follows:

- Having a moving/flashing sign directly opposite the submitter's potential residence diagonally opposite the site at 662 and 663 Colombo Street is of concern. The sign will be obtrusive to the living environment/outlook.*
- Sees the value the billboard will have to the applicant's business.*
- Suggests that the moving images become static between the hours of 10:30pm and 7:00am, daily.*

29. The reasons for the submissions in support are summarised as follows:

- Will be complimentary and in keeping with the commercial activity consented and the character of the area.*

- *Should set a minimum percentage of advertising required to relate to on site businesses.*
 - *Will set a positive precedent and would love to see the area become a focus point for digital signage.*
 - *Will contribute towards showcasing Christchurch as progressive and will assist with progressing the re-build of the city.*
 - *Council should allow/enable businesses to make revenue through digital advertising.*
 - *Will result in vibrancy/fresh energy in the area and provides a vehicle for advertising and communication with the local community.*

30. *The reasons for the submissions in opposition are summarised as follows:*

- *Out of character with area and will detract from unique architecture character i.e. Justice Precinct, Lichfield Car Park, Bus Interchange.*
- *Other cities around the world have spawned movements to replace or ban outdoor advertising.*
- *Outdoor advertising is brainwashing, ugly, distracting and creates visual pollution.*
- *High foot traffic area, moving images and potential for driver distraction causing pedestrian injury.*
- *Considerable adverse effects on amenity and character in the zone.*
- *Considerable amount of other signage planned for building but the application only considers one illuminated sign. Full effect of proposed signage cannot be adequately assessed unless all of the proposed signage is assessed at the same time.*
- *Contrary to relevant CDP objectives in Chapters 6.8 (Signs) and 15.2 (Commercial).*

19. I accept that to be a fair summary of the submissions. To the extent these matters are relevant (and most of them are), I will discuss them in the commentary which follows.

Assessment of adverse effects

The issues

20. Ms Afifi identified the following issues for consideration. I accept that summary and will consider the effects of the application under those headings.

- Traffic effects
- Effects on character and amenity (visibility, prominence, and dominance)
- Visual coherence
- Architectural integrity
- Health effects – light spill
- Effects on heritage
- Cumulative effects
- Positive effects

Traffic

21. Traffic, and in particular the potential for driver distraction has in the past often been considered to be a potential adverse effect of digital signage. International research on this has been inconclusive, pointing both ways. Within New Zealand, there have been no reported accidents

where driver distraction due to digital signage have been reported, and many if not most traffic experts seem to now consider that drivers are seldom if ever distracted by such signage to the point where crashes result.

22. Several factors make this particular proposal different from the majority of other digital signs established in Christchurch in recent years. Firstly, this appears to be the first time in Christchurch that a digital sign including moving images has been proposed at a major intersection, which might mean the potential for distraction would be greater than with the more usual static imagery seen to date. Secondly, this intersection features high numbers of pedestrians and cyclists. There is therefore a greater chance that pedestrians and cyclists could be distracted by the sign and fail to give way to vehicles, and vice versa.
23. On the other hand, several factors would mitigate the potential for distraction. The legal speed limit is 30 km/hr, and the layout of the roads is designed to discourage speed, making the risk of a crash between vehicles or involving pedestrians or cyclists lower. Neither street is designed to encourage through traffic in any quantity, such traffic being better provided for on other nearby streets, particularly the one way system. With fewer traffic lanes, cycle lanes and widened footpaths, these streets are designed to send a visual signal to drivers that they are expected to share the road. Views of the sign from the traffic lanes would be largely confined to the Colombo St southbound and Lichfield St west bound intersection approaches, because the orientation of the sign faces those directions. Because of its height, it would be out of the normal field of vision of drivers close to the intersection. It would be difficult to see at all from the other two approaches, although possible to see from Lichfield St eastbound when very close to the intersection, at a high and acute angle.
24. Additionally, the Lichfield Street / Colombo Street intersection features a traffic signal movement that temporarily stops all vehicular traffic, thereby enabling pedestrians to cross the intersection in every direction (including diagonally) simultaneously. The inclusion of this exclusively pedestrian phase in the traffic signal movement is commonly referred to as a Barnes Dance.
25. The applicant's assessment of the traffic issues was in the form of a reply by its consultants, Urbis Traffic Planning and Development, to a request for further information from the Council, and largely made the points above. The applicant fairly conceded that, with contradictory conclusions drawn from current research, when considering the extent of the impact of moving digital displays on motorists, it would be fanciful to draw conclusions from it with respect to pedestrian safety.
26. The applicant proposed a set of conditions which included an adaptive management approach, which would allow restricted amounts of advertising initially followed by a safety review, with restrictions progressively lifted in stages over several years if no accidents ascribed to the sign were recorded.
27. The Council had this material peer reviewed by Dr Shane Turner, a road safety expert at Stantec Consultants, and Dr Turner met with Urbis to discuss the matter. The results of this consultation were recorded in the Council's section 42A report, and neither Urbis nor Dr Turner prepared further

evidence for the hearing. However, Mr Ray Edwards of Urbis attended the hearing, answered questions and contributed to the discussion of traffic issues.

28. The discussion which now follows has relied on Ms Afifi's report and I am grateful to her for her careful and comprehensive narrative which has enabled me to understand the traffic safety aspects.
29. The outcome was that Dr Turner agreed with the applicant's traffic specialists that some caution should be taken when introducing video display LED billboards when there is no previous local experience of the likely (road safety) effects, being new technology for the city. As specified by the applicant, the international research that is available does not adequately address this type of installation. The majority of research into the safety impacts of video displays focuses on billboards in a highway location and the behaviour of motorists. In addition, the research is contradictory.
30. Dr Turner's key concerns were in respect to pedestrian and cyclist safety, given the high numbers of such users that currently use this intersection, which is likely to increase. Even at low speeds, collisions between motorists and these users can be more severe. In particular, Dr Turner was concerned with viewers attempting to view video clips i.e. viewing the sign for a longer period than a static image, and therefore being distracted from the immediate traffic environment for a longer period than that associated with a static image, thus putting themselves at risk of a collision with a motor vehicle.
31. Although the applicant suggested that there is no proven link between roadside advertising and potential effects on road safety, the applicant has not been able to provide a proven link to roadside advertising of the kind proposed not resulting in traffic safety effects. The mere absence of a link between such roadside advertising and potential effects on road safety does not confirm, and is not tantamount to evidence that, the potential effects in this regard will be acceptable.
32. The applicant and Dr Turner agreed that monitoring of short video clips by a monitoring/review condition would provide information to address the uncertainty around the distraction and road safety impacts of longer video clips (those greater than 20 seconds). Dr Turner considered that if monitoring of the sign could show that it is not creating any safety concerns then the longer video clips could then be considered. This monitoring would be undertaken with static images and video clips of no more than 20 seconds. If monitoring demonstrated that video clips were causing crashes and/or resulting in an increase in traffic conflicts, a move back to static images would be required.
33. In consultation with Dr Turner, the applicant volunteered a set of conditions with a detailed monitoring and review condition that takes into consideration Mr Turner's initial reservations in respect to the effectiveness of such a condition, including how traffic conflicts will be measured in such a way that Council can determine where there has been a noticeable change up or down in conflicts. Given the uncertainty of the road safety impacts of a full video screen, Mr Turner considered that it is important that Council are also able to change the operation of the sign, if the sign is shown to lead to adverse road safety outcomes. The conditions address these matters and

would enable a change to the operation of the signage if an inappropriate road safety impact was realised subsequent to the establishment of the billboard.

34. However, as the actual and potential effects in respect to traffic safety are high potential impact effects in terms of consequences for those injured in collision events, careful consideration of the potential effects of the proposal is required. In terms of consequences, Dr Turner outlines that there is a residual risk for unsafe outcomes which could include the risk of serious injury crashes, or a fatal crash. In relation to the matter of residual risk, Dr Turner considers that the residual risk of serious injury and fatal crashes is likely to be very low on this part of the road network.
35. Dr Turner advised that he would support the resource consent application for the billboard sign on traffic and safety grounds subject to appropriately robust conditions of consent. The applicant volunteered as part of this application a set of conditions that Dr Turner has agreed to.
36. In conclusion, there are potential adverse effects on the environment and persons in respect to traffic as relying on the expert opinion of Dr Turner, the use of video clip images greater than 20 seconds may result in a conflict between a motorist and a pedestrian or cyclist, due to the potential distracting qualities of the sign. The applicant has proposed a set of conditions that includes a review/monitoring condition to address those unknown adverse traffic safety effects. A “trigger and response” condition in these circumstances cannot be guaranteed to avoid a potential high consequence traffic safety effect given that there will always be a risk with a trial.
37. However, Dr Turner, in consultation with the applicant’s traffic expert, considers that the monitoring regime is a sensible approach. Dr Turner considers that the volunteered conditions will give the Council the ability to change the operation of the sign, if it is clear that the sign is contributing to serious crashes or the pattern of more minor crashes, and/or near misses (traffic conflicts) indicates that a more serious crash may occur.
38. I am a little concerned that the applicant and Council are effectively suggesting an experimental approach, with pedestrians, cyclists and motorists as the laboratory animals. However I acknowledge that Dr Turner considers the likelihood of accidents to be extremely low. Therefore the weight of evidence from the traffic experts is in favour of the application, and I am not in a good position to take a different view, despite my reservations.
39. I therefore accept that the potential adverse traffic effects of the proposed sign would be less than minor if the proposed monitoring regime were to be followed.

Effects on character and amenity (visibility, prominence, and dominance)

40. For the applicant, Professor Bird was highly enthusiastic about the proposal in a very extensive statement of evidence, which is difficult to do justice to in a summary. The following summary is taken almost verbatim from his own summary of his evidence. ¹

¹ At paragraphs 5.5 – 5.18 of his evidence

41. He described the design changes that had been made to the proposed sign since the original application for resource consent was lodged. These changes include a curved screen on the corner to avoid the appearance of two separate images on two screens at 90 degrees to one another and setting the screen closer (between 300mm and 664mm rather than 700mm) to the building to better integrate it into the architecture of the building. He considered those changes would further enhance the design and appearance of the screen and the building. The visibly apparent and/or perceived ('worst case') surface area of the screen, although technically 103.5m² would appear to be only 75.9m² when seen from the east and only 77.1m² when seen from the northeast. Even when the north-eastern 'worst case' surface area of 77.1m² is conservatively rounded up to 78m², it would still be well below the permitted maximum surface area of 95m².
42. The actual and potential effects of the Proposal were considered, and, in all instances, he considered them to be less than minor.
43. Under the Christchurch District Plan, the Site is zoned Commercial Central City Business. He considered the objectives, policies and rules for that Zone. He noted the Plan permits non-digital signage on this site. In his opinion, the proposal would be respectful of, responsive to and would integrate well into its immediate and greater central city commercial contexts, its public spaces, the one potentially existing example of nearby residential activity and the more distant future residential accommodation in the East Frame. He considered the proposal to represent an opportunity to engage with a collective audience and to bring vibrancy, energy and life to an otherwise very quiet area of Colombo Street between Lichfield and Tuam Streets.
44. He said that the sign would integrate well into the architecture of its host EntX building.
45. Because the size, digital make up, level of light emission and movement of the screens could be the same, he did not consider that it makes any difference whether the signage is 'on-site' or 'off-site'. The only difference would be due to the pattern and colour of the 'pixels' illuminated on the screen in any one image.
46. He found nothing in the submissions to change his views on the merits of the proposal being constructed on this site and in this particular part of Christchurch
47. He provided examples of examples of good corner-punctuating buildings, along with examples of building walls following their site boundaries. Examples of integrated and non-integrated architectural design relationships of screens to their host buildings, the digital age, and screens in internationally renowned central city spaces were also discussed. Many of these examples he considered to have positive urban design effects.
48. Seven visual simulations were prepared to illustrate how the Proposal would modify its receiving environment. The viewpoint locations were selected according (a) to where the public would be likely to be most aware of the screen, such as while waiting to cross pedestrian crossings at key intersections and (b) from the two locations identified on The Crossing building by the owner who

is a submitter (AB Investments Limited). All seven visual simulations are assessed in Section 18.0 of his evidence.

49. Factors he took into consideration when assessing the urban design effects of the proposal were:
- The distance between the viewpoint location and the site;
 - The area of the overall scene that the sign occupies;
 - The viewing audience and the numbers of people likely to make up that audience;
 - The topography of the landform;
 - Impacts on the skyline;
 - Impacts on the sense of place;
 - Visual dominance;
 - Architectural articulation and modulation of the building on which the sign is proposed to be attached;
 - Building size and scale;
 - Variations in materials and colours;
 - Relationship to existing character; and
 - Permitted effects.
50. He said that being able to see the sign does not necessarily give rise to any adverse effect.
51. He said that there is no logical reason why images relating to off-site matters would be any different to those advertising on site activities
52. In conclusion, he considered that the proposed digital sign, including its 'off-site' images, would have 'less than minor' adverse visual and dominance, on its various receiving environments. On the contrary, he was of the view that the proposed digital screen would result in very positive effects, including visually punctuating this central city corner, enhancing the vibrancy of the central city, and appropriately expressing the digital age in which we currently live. He also considers that the screen will enhance the intersection of Colombo and Lichfield Streets and the general character and amenity of the central city area.
53. On the other hand, the Council witnesses, particularly the urban designers, Mr Lonink and Mr Hattam were opposed to the sign in its present form and sought that it be disallowed or at least reduced in size and height. They considered that the proposed sign has the potential to adversely affect the character and amenity of the city centre locality. The scale, design, digital display, changing and moving images and location combine to create this effect, which contributes to the actual and potential effects the sign can have on the receiving audience.
54. They considered that the receiving audience would likely consist of persons in vehicles, pedestrians, cyclists, occupiers of shops and eateries, and commercial offices, in the immediate location of the EntX building and wider visual catchment. Mr Lonick provided a detailed description

of the receiving environment, the viewing audience and the visual catchment area in Sections 6 to 8 of the Urban Design hearing report.

55. In addition, they considered that residential activity that would need to be taken into consideration is that of the residential developments within the locality, including the East Frame, particularly any residential activity on the corner of Lichfield Street and Manchester Street, from which the sign will be visible.
56. Two submissions specially addressed the potential effect of the billboard on residential activity in the zone.
57. The neutral submission received from RVT Properties Limited raised that the establishment of a moving/flashing sign is a concern in respect to a third floor residential apartment directly opposite the EntX building that the submitter is planning. The submission from AB Properties Limited, raised that the activity is located in close proximity to sites that are zoned Commercial Central City Business, where the activity standards for the zone anticipate, among other things, residential and guest accommodation activity above the ground floor level where illuminated and flashing signage may result.
58. The submissions from the public mirrored the urban design experts in this regard, with some people very enthusiastic and others strongly opposed. Although there were more submissions in support than opposition I take no regard of the difference in numbers. Some of the submissions in support were from people actively engaged in the advertising industry, and while their submissions are entirely relevant to positive and economic effects, some of their discussion of visual effects tended to be simplistic and so similar that they appeared to be orchestrated. In any case the number of submissions on both sides were so low that I consider the difference cannot possibly be statistically significant.
59. I was provided by Professor Bird with a set of visual simulations from various viewpoints on cards, which if held up in front of the eyes at the precise location where the original image was captured, were intended to accurately represent the appearance of the proposed billboard from that location. I carried out this exercise and found it to be quite helpful. However, I did find that the images seemed to present the EntX building and surrounding buildings somewhat smaller and more distant than the reality, and therefore the same would apply to the proposed billboard. In each case I found that if I retreated away to an extent then the portrayal to me seemed more realistic. As an example, the simulation at the Manchester/Lichfield/High St intersection seemed more realistic halfway back along Lichfield to Madras St and the example midblock on Colombo St between Cashel and Lichfield Streets more closely resembled the view from the Cashel St intersection. I am not suggesting this was in anyway intentional, it just illustrates the limitations inherent in this technology and perhaps that everybody's eyesight is not the same.
60. I also noted that the images Professor Bird choose to include on the billboard simulations were probably at the upper end of visual appeal, one an image of a young girl riding on a dragon in flight and the other and armoured knight, possibly representing the Crusaders rugby team, as the

Crusaders were mentioned several times at the hearing as a potential subject. I very much doubt that every advertisement that might be displayed, or even most of them would be as appealing.

61. By contrast, Mr Lonink, in a similar set of visual simulations chose to represent the billboard in bright yellow, which would be at the upper end of prominence and unattractiveness. Few advertisers would use such a colour scheme, although some possible exemplars do come to mind, who use yellow and black as corporate colours, such as a well-known supermarket chain which advertises heavily on television. I am aware that black on yellow is regarded as possibly the most effective combination for attracting attention and memorability, so Mr Lonink's choice is not completely unrealistic. Again, I do not suggest any intention to mislead. Ms Semple wisely suggested that the reality would probably generally fall between these two extremes most of the time.
62. With regard to the visual prominence, I found that the proposed billboard would be very prominent indeed, and visually dominating from a relatively narrow range of perspectives. These include;
 - a) Looking southwards from the eastern side of Colombo St from Cashel St to about midway between Lichfield and Tuam Streets. I do not accept that the air bridge across Colombo St midway along this block would restrict the view at all, I was easily able to see the full height of the EntX building all the way from the Cashel St corner. This view includes the new apartment the subject of the submission from AB Investments Ltd and the proposed apartment yet to be built diagonally opposite the site.
 - b) Looking westwards from the northern side of Lichfield St to Colombo Street.
63. From both these directions the full extent of the billboard wrapping around the corner would be prominently visible.
64. Part only of the billboard would also be very prominently visible by;
 - c) looking northwards from the eastern side of Colombo St from Tuam St to Lichfield St, and
 - d) and looking eastward from partway between Durham and Colombo Streets.
65. From the latter two cases, only part of the sign would be visible, with the rest around the corner.
66. I considered carefully the visibility from the new East Frame residential development under construction to the east along Lichfield St between Manchester and Madras Streets. I considered that though the billboard would be clearly visible from the new dwellings closest to Lichfield St, it would be too distant, and seen in the context of large intervening buildings, to be regarded as dominating.
67. Professor Bird made the point, which I accept, that even though there may be an effect, it may not necessarily be an adverse one. He found that the visual effect would be very positive. Some of the submitters agreed with him. The Council experts, and some of the submitters did not.
68. I think it is relevant to consider the potential content of the advertising. I actually heard very little evidence about this. Movie trailers were mentioned by several witnesses, but there was no

confirmation of this, and obviously the absence of sound and the short duration possible, at least in the first few years, would make these completely different from what is usually meant by that term. I accept that if some sort of movie trailers were possible, that this would probably enhance rather than detract from amenities in the area. However, I doubt whether this would be a significant component of the advertising and it was certainly not presented as such by the applicant.

69. I think it more reasonable to assume that the content of advertisements would reflect the advertising typically seen at other billboards in the City, adapted to include animation if the advertiser seeks this. Having been a Commissioner on a number of the digital billboards that have been installed in the last few years, I have made a practice of, from time to time, watching some of these for short periods of time. I have observed advertisements for a wide range of commercial products and services, including car sales, financial services, internet service providers, real estate, supermarkets, radio stations and many others. There have been a small number of advertisements by public service or community organisations, including Councils which Mr McAler said probably amounted to 20% of all advertisements, although I am sure I have never seen anything like such a high proportion.
70. At a recent hearing for a smaller billboard nearby, in the Innovation Precinct, in Madras St, I was assured by the urban designer giving evidence that the content of advertising would be likely to reflect the intentions of the Innovation Precinct. He drew attention to the local headquarters of Vodaphone, and a large outdoor retailer, Kathmandu. He said the advertisements to be displayed would reflect the activities of those businesses and others like them and would be innovative and exciting, even artistic, and showed some simulations of such advertisements. The sign was approved and has been installed. None of these predictions have come to be and the content of signage displayed there every time I have looked has been a range of simple, basic commercial advertisements, consisting largely of brand names and logos, with little pictorial content and little or nothing that could be described as innovative, exciting, interesting or vibrant. That sign was approved largely because it was smaller, far less dominant and in an area with a considerably lower pedestrian count.
71. For the present applicant Professor Bird gave no such assurances as to content but did use highly favourable images on his visual simulations and did repeatedly use words such as “vibrant”, “colour”, “energy” and “life”. I am conscious that I must not punish this applicant for the behaviour of a previous one, but by the end of the hearing I had heard nothing of substance to support those optimistic words.
72. Professor Bird said that the sign would reflect the modern digital age and that people would appreciate it for that reason. Several submitters echoed this. I accept that many people make significant use of digital technology, but I sincerely doubt that their main motivation for this is to see advertisements. Rather their motivation is much more likely to be opportunities for social interaction, recreation, entertainment, communication, and information, or to carry out business or employment.

73. In contrast other submitters described their aversion to the proliferation of advertising and said that they found advertising intrusive and annoying. Examples were mentioned of certain cities in the United States starting to move from permissive to more restrictive regimes.
74. Clearly there are two schools of thought on the merits of this form of advertising. Both are valid and they cannot be reconciled. This proposed sign is very large prominent and in my opinion will dominate the visual environment in the area, whether people want to see this or not. It was for this reason that the City Council witnesses wish to see the sign declined, or at least the sign made smaller and lower, to reduce its dominance. In my opinion, this suggestion would have reduced the dominance of the sign, but the applicant rejected this.

Visual coherence

75. Ms Afifi said that the fact that the sign content proposed will have no association with the activities on the site and is unlikely to be associated with activities in the immediate central city environment, impacts significantly on the coherence of the immediate environment. There is no benefit of legibility or identification of the site. There is no functional need for the content or scale of the sign, nor is there any related necessity to support the businesses on site.
76. She agreed with Mr Lonick that the sign would provide a good opportunity to promote the movie theatre activity through a dynamic digital screen and as a major entertainment complex. The building is a distinct landmark for the city and an LED screen showing movie clips, for instance, would relate the activities taking place in the building to the street and could be part of the urban experience. However, the applicant made no commitment to that and barely discussed it.
77. Overall, I agree that the proposed billboard will result in significant adverse effects with respect to visual coherence of a scale that is not appropriate in the receiving environment.

Architectural integrity

78. Professor Bird said the sign fitted very well into the structure of the building, between the roofline at the top and the verandah below and avoiding the effect of being “a picture on a wall” which would be the case if the sign was smaller. Conversely, at other hearings I have heard urban designers praise the effect of having the signs which are framed within a building elevation. This seems to be a matter of individual preference rather than an accepted urban design principle. I accept that the proposed sign fits neatly within the building outline. However, it seems to me that the design for this building relies heavily on its flat, narrow, multi-coloured vertical panels to create a pleasing appearance on a building which would otherwise appear very horizontal due to its considerable length compared to its height. The appearance of this sign is very different, with a curved and slightly bulbous appearance. It is very large, and very unlike anything else on the building, which to me neither reflects nor contrasts in a pleasing way with the rest of the building. To me it would seem like more of an after thought than a conscious design choice. I actually thought the original design, as originally applied for, which consisted of two flat screens meeting at right angles on each side of the corner would have fitted more comfortably in a visual sense with the

angular architecture of this building. I note that Mr Lonink came to the same overall conclusion in his expert evidence, and in that regard, I prefer it to the evidence of Professor Bird.

79. Professor Bird, and several of the submitters said that this sign would enhance what is otherwise a very dull part of Colombo St from Lichfield to Tuam Streets. The architects of the building might take exception to this statement. To me it overlooks the fact that the sign is at the extreme end of a very long building, most of which would remain exactly as is. The sign would be invisible from the entire block face on which it would be located and have minimal visibility from the other side of Colombo St except from close to the Lichfield St corner. In any case I do not accept that this is a dull area, or that it will continue to be a dull area once the EntX building is open. The building itself will be a considerable generator of pedestrian activity, and the ground floor activities in the dining precinct, with attendant signage will enliven this frontage. The design of the building has attempted to provide a pleasing appearance and to overcome the long horizontal profile. I note that the design of the building was found pleasing by the Council's Urban Design Panel who were only accepting of digital signage if it was to promote activities within the building. The other side of the road already features the striking architecture of the bus exchange with its busy movement of people. I found the suggestion that the sign would integrate very well with the building to be unconvincing.

80. I thought Ms Afifi put this well when she wrote;

Whilst I agree that the billboard will contribute to the vibrancy of the area, and will provide for activation with street users, I see this in the context of the receiving environment which is currently progressing with the construction and establishment of a high quality urban city centre environment as opposed to be a 'dead' area that needs 'enlivening'.

81. Professor Bird also spoke of the value, in urban design terms, of using the design of buildings to mark and emphasize significant corners such as this one. I agree that this is a concept often used in urban design, sometimes by allowing for extra height on corner buildings for example. However, in discussions at the hearing he accepted that this intersection has no greater significance than numerous other intersections in the Central City. In my opinion, the intersection is already very well marked by the Bus Exchange building, and the EntX building once completed and open will act in a similar way, with its large entrance and upswept verandah drawing attention to the corner. I think the argument would have more merit if the sign related more directly to activities in the building and its appearance was more complementary to the design of the building itself

Health effects – light spill

82. The evidence of Mr Pearson was that the effects of glare and light spill would be less than minor, and that lighting levels would be automatically adjusted to reflect prevailing light conditions and reduced significantly at night. The Council's environmental health officer accepted this. This is now well-established technology for digital signs. I accept the evidence and have no concerns about this.

Effects on heritage

83. In her report Ms Afifi wrote;

There are no particular heritage values in the immediate locality that would be adversely affected by the proposal. The billboard will be partially visible from Cathedral Square, a very prominent public space and one of the most important heritage settings of Christchurch. I agree with Mr Lonick that the billboard will likely cause some form of distraction from the heritage setting however the associated adverse are not likely be significant unless the future Cathedral reconstruction include a spire that is publicly accessible. Given that a potential resource consent for a spire at this stage is speculative and no resource consents exist for such a spire, I have not taken this potential effect into consideration.

84. I agree with that and would add that even if there was a publicly accessible spire built at the Cathedral, the sign would be visible in that direction seen against a much wider urban background including the Cathedral itself and Cathedral Square, which would dominate the view, and extending to the Port Hills in that direction.

Cumulative effects

85. I agree with Ms Afifi that as there are no existing digital signs in this locality, and as yet no signage on the EntX building, then at this stage there would be no significant cumulative effects caused by this sign.

Positive effects

86. Positive effects from this sign would include the economic benefits to the owners of the building and the sign, and to advertisers.
87. I also accept that some people would consider the sign would add interest, energy and colour to the area and would enjoy it, but this would be balanced by those who did not. In any case, this aspect has already been discussed under the amenity heading, so it would be double counting to address it again.
88. Advertisers have numerous existing opportunities to make use of digital billboards in and around the central city. While I accept that this proposal would provide a different and more generous opportunity, this positive effect has to be balanced against the adverse effects on the amenity of the area. In my opinion the actual and potential positive benefits of the sign would not outweigh the adverse effects.
89. Ms Afifi acknowledged that there is the potential for the images and video clips on the billboard to provide community information and to communicate positively with people (i.e. providing information on community events, education, health and welling etc.). However, she thought this this would require a volunteered condition of consent requiring a minimum percentage of display time being dedicated to community focused displays, as suggested by one of the submissions received in support of the application. Similarly, she said there is the potential for the billboard to support the commercial activities on site, and to contribute positively to character of the EntX building, provide for visual coherence between the sign and the EntX building/activities in particular, the movie theatre. It is noted that the Urban Design Panel, recognising that signage was yet to be developed in full, stating that they were not opposed to the LED signage providing its use

was associated with the entertainment complex (and technical matters such as traffic safety could be resolved). I would also consider the display of movie theatre/entertainment images and clips to provide a greater potential to contribute to enlivening the area, when compared to general advertising goods and services such as supermarket specials, motor vehicles or insurance, for example. However, this would require a volunteered condition of consent requiring a minimum percentage of display time being dedicated to the activities of the businesses on site.

90. I agree with Ms Afifi that this would greatly enhance the contribution of positive effects to the overall consideration. However, the applicant has not taken up this suggestion and I am not prepared to simply assume this would occur anyway. The applicant of course would have no control over the amount of requests for advertising of this sort it might receive, so such a condition may be impractical in any case.

Overall Conclusion on adverse effects on the environment

91. My overall conclusion on adverse effects on the environment is that the effects would be very significant in the areas already described, due to the size, prominence of the sign and likely content.

Statutory considerations

Resource Management Act 1991

92. When considering an application for resource consent and any submissions received, the consent authority must have regard to the matters listed in Sections 104 and 104B of the Resource Management Act 1991. Section 104 states that Subject to Part II of the Act, which contains the Act's purpose and principles, including matters of national importance, the consent authority shall have regard to:

Any actual and potential effects on the environment of allowing the activity.

Any relevant provisions of a plan and of a national environment standard.

Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

93. I have already found that any adverse effects of this application would be significant. We have discussed s104(3)(d) relating to notification extensively above. Section 104B simply provides that in regard to discretionary activities we may grant or refuse the application, and if granted impose conditions. The remaining matters I need to assess are the objectives and policies of the district plan and any other matters I consider relevant.

Relevant Objectives, Policies, and other Provisions of a Plan or a Proposed Plan (S.104 (1) (b))

94. In her report Ms Afifi made a comprehensive assessment of the relevant objectives and policies of the District Plan. In her summary of these at paragraphs 146-150 of her report, she said that;

146. Where the District Plan objectives and policies support economic prosperity and development, revitalising and recovery of the Central City and enabling the use of signs for

businesses to promote their activities, these outcomes are balanced with the strong direction towards achieving a visually attractive high quality urban environment, which manages effects of activities, including those between incompatible activities. In my opinion, the provisions seek to balance these sometimes conflicting outcomes, rather than elevating the importance of one over the other. Any weighting of conflicting outcomes can be addressed with consideration of the specific circumstances of an application.

147. Whilst the proposal is consistent with the objectives that provide for the outcomes regarding economic prosperity and well-being directly by way of additional revenue for the landowner/developer, and indirectly through advertising, this is potentially at the detriment of businesses to be established on the application site, where permitted signage activities will be removed, should the billboard be approved.

148. Further, the billboard is not considered to contribute to the revitalisation of the Central City where it seeks a high quality urban environment, having regard to the characteristics of the area, including those developing with on-going recovery of the Central City, a reasonable component of which is progressing on sites adjacent to the application site. The area, height, digital display with changing and moving images cumulatively results in a sign that will have significant adverse effects on the character and amenity of the receiving environment. Furthermore, the scale of the signage is not related to any functional or operational need, on or off-site.

149. In this case I have given less weight to the economic considerations that would support the establishment of the off-site sign. This is because these outcomes could successfully be achieved by a digital billboard on site of a significantly reduced scale and visual impact, as the billboard of the scale proposed is not required for the economic success of the relatively large movie theatre and dining precinct businesses on site, and the impact on amenity and quality of the urban environment matters are unacceptable and cannot be managed or mitigated.

150. After considering the relevant objectives and policies it is my conclusion that in an overall sense, the proposal is not supported or enabled by the relevant objectives and policies of the CDP.

95. Ms Styles for the submitter made a similar analysis. Her main point was that taken collectively, the objectives and policies of the plan do not distinguish between achieving good economic outcomes as well as promoting a high standard of amenity as the Central City redevelops after the earthquakes. Both are to be achieved together, with neither predominating. She said that this applied in all the Central City zones. Ms Styles did not go on to assess the environmental effects or apply these provisions to the case.
96. For the applicant Mr Christensen submitted that while amenity is to be promoted, the commercial aspects are more important in the Commercial Central City Business Zone. He correctly observed that various objectives and policies emphasize that this zone is the principal focus for the most intensive forms of business activity, as compared to the central City Mixed Use zone and the Central City Residential Zone.
97. I agree with that as far as it goes. It is inevitable that the Commercial Central City Business Zone will be the busiest and most intensive of the central city zones and contain the largest proportion of large buildings and commercial activities. The risk with this argument however is that these objectives and policies do still expect a high standard of amenity throughout all the Central City zones. Nowhere do they state that a lesser standard of amenity is expected in the Central City zone. This is only an inference that Mr Christensen attempts to draw from the more

intensive nature of the Central City Business Zone and the existence of other, slightly less intensive zones there. Another interpretation would be that the greater levels of intensity impose a greater challenge to ensure that amenity standards remain high. The objectives and policies were prepared together at the same time and must be read together. Even at the highest level, Strategic Objectives and policies promote intensive commercial activities and high standards of amenity together, and this is clearly to be seen in much of the redevelopment which has already occurred since the earthquakes.

98. There is a risk in Mr Christensen's approach that amenity and the quality of the environment may be discounted in favour of the needs of commercial development at least in the Central City Business zone. I do not read the objectives and policies that way at all. Rather they have been carefully crafted to ensure both are pursued together.

99. For these reasons I prefer the analyses of Ms Afifi and Ms Styles and adopt them in full. The relevant provisions were set out in Appendix G to Ms Afifi's report and are drawn from the Chapter 3, the over-riding strategic objectives and policies, Chapter 6 signs, and Chapter 15, Commercial. All the provisions listed there promote or allow for successful business activities including signage while specifically also expecting a high standard of amenity, quality of the environment and quality urban design. Because of my findings that the proposed signage would be excessively prominent, dominate the visual environment and detract from this significant building and from the amenities of the immediate environment, I consider the proposal to be at least inconsistent with and probably contrary to some or all of these provisions.

100. Other relevant matters

101. I do not consider it is necessary to refer to the Canterbury Regional Policy Statement (the RPS). Although this provides high level and over-arching guidance for land planning in Canterbury, the Christchurch District Plan was prepared in the light of the RPS and can be assumed to be consistent with it and to give effect to it. In any case, this is a very local matter, and the RPS is much more concerned with matters of regional significance.

102. I was also referred to Section 60(2) of the Greater Christchurch Regeneration Act 2016 requires that decisions and recommendation on resource consent applications are not inconsistent with Recovery Plans and Regeneration Plans.

103. The following Recovery Plans relevant to the application have been developed in accordance with Section 7:

- Christchurch Central Recovery Plan (operative 31 July 2012)
- Transport chapter of the Christchurch Central Recovery Plan entitled "An Accessible City" (operative 31 October 2013)
- Land Use Recovery Plan (operative 6 December 2013)

104. I note that the recently-prepared and now operative Christchurch District Plan was prepared and adopted in full knowledge of those documents. In terms of the case law as I understand it I must assume that the District Plan gives effect to those higher order documents, as it must.

105. In any case, having read the summaries in the evidence of the applicable parts of those documents, they appear to promote exactly the same themes of promoting business recovery and success together with a high quality urban environment and high standard of amenity. None of the three “King Salmon” exceptions seem to apply. I conclude that any decision consistent with the Christchurch District Plan would be not inconsistent with the Greater Christchurch Regeneration Act 2016.

Part 2 of the Resource Management Act

106. Similarly, I assume the Christchurch District Plan gives effect to Part 2 of the RMA and will not examine that separately.

The decision

107. My decision therefore is that the application is declined. The submissions in support are disallowed and the submissions in opposition are allowed. My reasons for this decision have been stated throughout this text.



David Mounfort

Hearings Commissioner

25 June 2018: