

RESOURCE MANAGEMENT ACT 1991

DECISION OF THE CHRISTCHURCH CITY COUNCIL ON A RESOURCE CONSENT
APPLICATION

APPLICATION REFERENCE:	RMA/2017/1276
APPLICANT:	Halo Media Ltd
SITE ADDRESS:	65 – 67 Victoria Street
LEGAL DESCRIPTION:	Lot 41 DP 484488
PROPOSAL:	Establish a 46m ² LED billboard on the side of a building at 65 – 67 Victoria Street for off-site advertising
DISTRICT PLAN ZONING:	Commercial Central City Business
OVERLAYS AND MAP NOTATIONS	Category 2 Lower Noise Level Entertainment and Hospitality Precincts; Central City Building Height 17m Overlay; Central City Outer Zone; Liquefaction Management Area
TYPE OF ACTIVITY:	Discretionary
DATE OF HEARING:	20 December 2017
HEARINGS PANEL:	Commissioner Ken Lawn
APPEARANCES:	<u>Applicant</u> Jo Appleyard, Solicitor Mark Davey, Applicant Andrew Craig, Landscape Architect Jonathon Clease, Planner <u>Council Officers</u> George Enersen, Planner David Hattam, Urban Designer

Background

1. I have been appointed by the Christchurch City Council as a Commissioner to hear and determine an application made by Halo Media Limited to establish a 46m² LED billboard on the side of a building at 65 – 67 Victoria Street.

2. The property at 65 – 67 Victoria Street contains a 4-storey commercial building containing a range of retail and commercial uses, although some of the building is currently vacant.
3. The proposed digital (LED) billboard is to be placed on the side of the building facing north-west along Victoria Street, and will be seen as one travels along Victoria Street towards the Central City. It has a total proposed area of 46m², with the top of the billboard being 15.975m above ground level, and the bottom of the billboard being 6.375m above ground level. The billboard will display third-party advertising, will be digital, and will have a minimum period of image display of 10 seconds (it was originally proposed to be 8 seconds, but the applicant agreed to increase that to 10 seconds in response to a traffic safety recommendation). The proposed location has also been modified by recessing the billboard in from the top and side edge of the building façade by 300mm, and to extend a black panel feature on the front of the building around the side to meet the billboard.
4. The application was originally lodged in June 2017, and was publicly notified on 23 August 2017, following a notification decision by me as Commissioner.
5. A total of 7 submissions have been received, 2 in support and 5 in opposition. None of the submitters wished to be heard at the hearing.

Existing Environment

6. The application site is on the southern side of Victoria Street, generally opposite the Christchurch Casino site. The site has commercial buildings on either side of it, the buildings on the site to the west being one and two-storey.
7. Opposite the site, and to the west, are two triangular shaped areas of open space zoned for that purpose.
8. The site is surrounded by commercially zoned properties, although there are two residentially zoned sites which would have limited view-sheds of the proposed billboard.
9. The site is about 140m from the Victoria Mansions site, and about 165m from the Jubilee Clock Tower, both of which are heritage buildings.
10. A resource consent has been granted in January 2016 for a multi-storey building including 62 residential units on the commercially zoned nearby property at 48 and 52 Peterborough Street, and another resource consent has been granted in May 2017 for a two-storey commercial development including restaurant and bar areas at 56-62 Victoria Street.
11. Victoria Street provides a diagonal entry point into the Christchurch CBD, and has a relatively narrow strip of commercial land either side of the street from Bealey Avenue to Durham Street. It is a local distributor road, with two-way traffic, and a posted 30kph speed limit. It is identified as a pedestrian, cyclist and public transport priority route in the An Accessible City Chapter of the Christchurch Central City Recovery Plan.
12. There are a number of existing non-site related signs along Victoria Street. A 40m² digital billboard at 50 Victoria Street (although only half the consented area is currently being used) and a 55m² static billboard at 83 Victoria Street are both in the area of Victoria Street south of Salisbury Street, and can each be seen (although generally not together) in conjunction with the proposed billboard the subject of this application. There are three other consented billboards in Victoria Street north of Salisbury Street, at 104 Victoria Street (50m² digital), 149 Victoria Street (20m² static), and 183 Victoria Street (32m² digital).

Planning Framework

13. The operative Christchurch District Plans are under review. The Independent Hearings Panel has made all decisions on the Proposed Replacement District Plan. All rules are now fully operative or treated as operative pursuant to Section 86F of the Resource Management Act.
14. The application site is zoned Commercial Central City Business under the Christchurch District Plan. This zone provides for the consolidation of business activities while providing for a diverse mix of activities, and a vibrant place for residents, workers and visitors.
15. The objectives and policies for signage generally seek to ensure signage will support the needs of business, infrastructure and communities, whilst maintaining public safety, and enhancing the visual amenity values and character of the surrounding area and buildings. They acknowledge that signage can contribute to the vitality and recovery of Christchurch.
16. The application does not comply with two specific standards beyond which static and digital billboards become a discretionary activity in most commercial zones;
 - The maximum area of any single sign is 8m² (the proposed billboard will be 46.08m²)
 - The maximum height above ground level to the top of the sign is 9m (the proposed billboard will be 15.875m)
17. Overall the application is to be considered as a **discretionary activity**.

Summary of the Evidence Heard in the Hearing

The Applicant

18. Ms Jo Appleyard presented legal submissions on behalf of the applicant. She introduced the application, and the witnesses she proposed to call.
19. Ms Appleyard noted that the existing environment includes other billboards that were found individually tolerable even (at that time) as non-complying activities, and that the proposed billboard is not of a different size or scale. She referred to the decision of Commissioner Mountfort for the billboard at 50 Victoria Street in which he concluded that “any adverse effects of this sign would be similar to the effects of those existing signs, and not cumulative to them”. She contended that the permitted baseline, as well as a complying billboard, would include large murals and artworks, possibly illuminated, and referred to such features on the Calendar Girls and Casino buildings nearby.
20. She noted that potential adverse effects for traffic, glare and light spill, and heritage, were accepted by both the planners as acceptable. The difference of view between the Applicant and the Council’s visual experts is in respect of character and amenity. Both experts agree the sign is prominent, but Mr Hattam for the Council goes on to consider that the billboard is also dominant.
21. Ms Appleyard referred to positive amenity effects identified by Mr Clease for the Applicant, including breaking up of a large featureless side wall, and contributing to an urban-buzz character of the area.

22. She referred to evidence to be called addressing cumulative effects, and submitted that any future threshold of adverse cumulative effects has not been reached.
23. She referred to a 2014 Addendum to the Christchurch Central Recovery Plan which deals specifically with the establishment of the Entertainment and Hospitality Precinct and the encouragement of business owners back into Victoria Street. She submitted that the revenue received from billboards for the property owner is a positive factor that needs to be weighed in the consideration of this application.
24. Mr Mark Davey, Director and co-owner with his wife, of Halo Media Ltd, spoke to the positive advantages of digital advertising, which is more responsive and changeable than static advertising billboards. He referred to the economic benefits to property owners, architectural benefits for the enlivening of blank walls, and benefits to the character of entertainment areas.
25. Mr Andrew Craig spoke to his pre-circulated landscape architect evidence. In that evidence he concluded that the proposed sign is in keeping with the setting that people would expect of the local environment, where signs are reasonably common, and attached to buildings. The billboard, located on the side of the building, and comprising only 14% of the wall space, will appear as an integrated component of the building fabric. He considered that combined views with the other approved billboards would be highly variable depending on the vantage point and the presence of intervening trees and buildings, and that the area of combined views is confined to a relatively small area.
26. At the hearing Mr Craig described the Victoria Street area as diverse, with large buildings, and limited residential, and that the billboards enlivened and enhanced that environment. Views of the billboards from the two nearby pocket parks were limited. He noted that only two of the billboards could be seen together at any one time, and that a sequential view of the billboards as one moved along Victoria Street was appropriate. He disagreed that this part of Victoria Street could be seen as a Gateway, and that if Victoria Street is a Gateway to the Central City, this gateway experience occurs at Bealey Avenue.
27. He reiterated his views that while the billboard was prominent, it was not dominant. He describes dominance as occurring "when appreciation of the surrounding landscape is usurped by the presence of the dominant object".
28. He considered that the billboard was well integrated with the architectural elements of the building, and there could be other architectural features on this wall which would have similar effects. He accepted that while the billboard covered only 14% of the side wall, it would occupy about 30% of the wall that was visible above adjoining buildings.
29. He repeated that the public would not be surprised to see the billboard, and that it would not be out of keeping. He did not consider this to be a sensitive environment, as compared to say a residential environment.
30. Mr Craig accepted that Victoria Street has an important pedestrian environment, but the human scale is more important at street level, with less focus on the elements of buildings that are above street level.
31. Mr Craig did not consider that the billboard would affect the residential environment of any future residents of the approved development at 48 and 52 Peterborough Street, as the proposed light emission is acceptable, and residents would be moving into a commercial rather than a residential environment.

32. Mr Jonathon Clease spoke to his pre-circulated planning report. In that report he described the background to the application process. He described the surrounding environment, and the provisions of the District Plan.
33. He emphasised the change in the District Plan approach to signage, which has become more enabling, with billboards in commercial zones becoming discretionary rather than non-complying. He saw this as a significant change where billboards are now anticipated and potentially appropriate in the Commercial Central City zone, subject to a case by case assessment.
34. Mr Clease described Victoria Street as a long established commercial corridor, with residential activities generally locating one block back. He considered that the District Plan anticipates a very urban, intensely commercial, character along that corridor, and an environment in which coloured lighting and signage can contribute to a positive pedestrian and entertainment experience.
35. Mr Clease considered that advertising signs are part of the streetscape experience, but not the dominant element. The three billboards in the stretch of Victoria Street from Salisbury Street to Durham Street are each visible for short periods, and only two can be seen together at any one time.
36. He discussed the concept of Victoria Street as a Gateway, although noting that the District Plan does not identify any gateways as a matter for specific policy or regulatory direction. He agreed with Mr Craig that this part of Victoria Street is not a gateway, and if there is a gateway, it is at Bealey Avenue.
37. Mr Clease undertook an analysis of the proposed billboard against a set of best practice visual effects recommendations identified in a report prepared by Boffa Miskell for the Christchurch City Council. His conclusion was that the proposed billboard aligned with the 8 criteria developed in that report.
38. With respect to cumulative effects, Mr Clease concluded that any threshold for the cumulative effects of a number of billboards is not reached by the proposed billboard. Indeed, he considered that the visual effects were more positive than negative. He also noted the transitional nature of advertising signs as new buildings are erected that will over time conceal current and future blank walls.
39. Mr Clease also referred to positive economic effects that flow to the building owner during a period of recovery following the Canterbury earthquakes.
40. Mr Clease undertook an analysis of the objectives and policies of the District Plan. He concluded that the proposal is consistent with the proposed policy direction regarding the enablement of signage (including off-site signage) in commercial areas, that the signage is in proportion to the façade that it is displayed on, that it contributes to the visual interest and vibrancy of the City Centre, that it supports the needs of business, and that it is consistent with the wider recovery goals of the District Plan review.
41. Mr Clease also tabled a set of proposed conditions should I decide to grant the application. He described them as reasonably standard conditions, and he agreed to work with Council officers on any suggested changes.

The Submitters

42. Seven submissions were received to the publicly notified application. None of the submitters wished to be heard at a hearing, but I have considered and taken into account the submissions lodged.
43. Two submissions were in support of the application, and were on the basis that the billboard will increase the livelihood of this part of the CBD.
44. Five submissions were opposed to the application. They generally referred to the visual, living environment, further clutter, and driver distraction effects. Specific effects were on the future residents of the proposed apartment building, and on the effects on an outdoor dining area located below the proposed billboard.

The Reporting Officers

45. Mr David Hattam spoke to his pre-circulated urban design assessment. In that assessment he described the receiving environment as an area of high quality which will be affected by adverse effects from the proposed billboard. This is because of the high quality of the built form, the quality of the public realm, including the nearby pocket parks, Victoria Street's status as a local distributor road with planned improvements, and the sensitivity of the users of those areas to changes.
46. He considered that the proposed billboard generated adverse effects because of its excessive size, the height at which it is mounted, the effects of frequent transitions, and cumulative effects with other signs. He considered that the billboard would detract from the character and visual appeal of the surrounding area and public realm, and that it fails to integrate with the architecture of the building.
47. At the hearing Mr Hattam stated that this kind of billboard is more appropriate, and provided for, in industrial areas on arterial roads. He considered the billboard to be visually prominent, and does not add positively to the commercial environment. He considered that the Applicant's experts had overstated the positive attributes, and did not agree that it would assist in creating an urban feel, or urban buzz. He did not consider that the District Plan anticipated billboards in Victoria Street, which he described as an outlier not really at the core of the CBD. He accepted that signage occurs in the central city, but not as a large concentration. He produced some photographs of Auckland, Brisbane, and Melbourne which he suggested showed that billboards and signs were not a major factor in those cities.
48. Mr Hattam considered the billboard to be excessive in size, even monumental, and compared that to human scale advertising which complying signs would exhibit. He was particularly concerned about the experience for pedestrians and users of the pocket parks. Mr Hattam was of the view that the billboard would need to be considerably smaller and more at human scale to be acceptable, and in response to questions from me, said that it would need to be much closer to the 8m² in area to be acceptable.
49. Mr Hattam confirmed his view that the cumulative effects of this billboard with other billboards led to the signs appearing dominant. While he agreed that generally only two billboards could be seen at any one time, the sequential experience of a number of signs led to a domination. The three billboards were within a distance of 100 metres, being a distance within which a billboard can be seen and comprehended, and three billboards within that distance (100m) would be excessive.
50. Mr George Enersen spoke to his pre-circulated planning report. In that report he described the application, the existing environment, and the planning framework. In considering

potential adverse effects, he accepted specialist advice from traffic engineer Ms Shelley Perfect that any effects on traffic safety would be less than minor, based on the 30kph speed limit, and the agreement to a minimum 10 second duration for each image display. He accepted environmental health advice from Ms Hannah Mirabueno that any effects of glare and light spill would be less than minor. He accepted heritage advice from Mrs Suzanne Richmond that any effects on heritage buildings (Jubilee Clock Tower, and Victoria Mansions) would be minor at most, as they are both some distance from the billboard, and there are limited viewing angles.

51. Mr Enersen concluded that the effects on the amenity and character of the area to be significantly more than minor, and unacceptable, and that the cumulative effects will also be significant and unacceptable.
52. In reaching those conclusions, Mr Enersen considered that the billboard would be both prominent and dominant, because of the size and height, and the nature of the receiving environment. He agreed with Mr Hattam's conclusion that the billboard will be dominant to the established human scale and people oriented character of the area, particularly for pedestrians, and from within the pocket parks. He also agreed with Mr Hattam that Victoria Street has a unique and high quality commercial environment, and that it does not need illuminated billboards to enliven or activate the area. He agrees that there are better locations in Christchurch for large billboards.
53. With respect to cumulative effects, Mr Enersen considers that three billboards within 100m creates a sense of clutter, and that the cumulative effects will be greater than the sum of the individual billboards. Mr Enersen also considers that the addition of another sequential billboard along the full length of Victoria Street will exceed the capacity for Victoria Street to absorb the cumulative effects on the amenity and character of Victoria Street.
54. Mr Enersen also carried out an assessment of the objectives and policies of the District Plan. With respect to objectives and policies relating to strategic directions, he does not consider that the proposal will result in a high-quality environment that is attractive to residents, businesses and visitors, nor enhance or maintain the Central City. With respect to objectives and policies relating to signage, he accepts that the proposed billboard will support the needs of business, and maintain public safety, but at the expense of the amenity values and character of the surrounding area. He accepts that the Victoria Street commercial area is not a "sensitive" area in which signs need to be controlled, but that does not mean it is necessarily appropriate either. With respect to the more specific policies about the design of signs, he does not consider that the billboard is in proportion to the scale of the building, and he considers that the sequence of signs in Victoria Street leads to a cumulative effect on the amenity and character of the area.
55. At the hearing Mr Enersen accepted that the District Plan is now more enabling in its provisions for advertising signs, but there still needs to be a consideration of the effects of each sign in the context of the environment.
56. He accepted that the District Plan does not refer to Victoria Street as a "Gateway", but noted that it is one of only two diagonal streets, and that Victoria Street has a special feel, with an emphasis on pedestrians rather than vehicles.
57. He also accepted that the billboard has some economic benefits, and benefits of improving a blank wall, but that these benefits were outweighed by the visual and amenity adverse effects. He saw the application as more negative than positive.

58. He again emphasised the cumulative effects. His conclusion is that the number of billboards in Victoria Street, and in this part of Victoria Street in particular, has reached a tipping point where this billboard should not be approved.

Right of Reply

59. Ms Appleyard led the right of reply on behalf of the Applicant. She said that it was not appropriate to compare the proposal with other cities, with each having its own set of issues. She questioned the selectiveness of the photographs produced by Mr Hattam. Christchurch is unique in that it is rebuilding after the earthquakes, and that economic benefits for building owners, and improving blank walls, are important transition opportunities.

60. She also referred to changes to the District Plan resulting from Decision 43 of the Independent Hearings Panel which included provisions relating to the Entertainment and Hospitality Precinct, including the encouragement and protection of investment in the central city.

61. She also suggested that the comments of Mr Hattam about signs needing to be at a human scale would apply to all the existing billboards approved by various Commissioners.

Hearing Closure

62. At the end of the hearing the two planners agreed to prepare and supply me with a set of agreed conditions should I decide to grant the application. These conditions were supplied to me on the following day, 21 December.

63. Ms Appleyard also agreed to supply me with a copy of Decision 43, and of a judicial review of the Council's Local Alcohol Policy, which referred to Decision 43. That material was supplied to me on 22 December.

64. With that information, I had sufficient information to make my decision, and I closed the hearing by a Minute on 28 December 2017.

Place of Victoria Street

65. Central to my consideration of this application is an understanding of the "place" of Victoria Street in the planning framework.

66. Mr Hattam and Mr Enersen emphasise the high quality built form and range of uses that are attractive to people, the medium quality public realm of the street and pocket parks, the emphasis on pedestrian use, the importance of the quality of the environment, the future opportunities and plans for the development of Victoria Street, the closeness of the surrounding residential areas, and the gateway nature of Victoria Street as it leads toward the central city.

67. Mr Craig and Mr Clease emphasise the urban commercial character of Victoria Street, and the urban buzz associated with activities, signage, and illumination. They emphasise the special place of entertainment and hospitality. They describe the character of the area as variable, with low to moderate street amenity, and with empty lots and blank walls that would benefit from enlivening. They do not see Victoria Street on a whole as a gateway, rather if there is any gateway, it is at the Bealey Avenue end.

68. While those two approaches seem opposite or divergent, they are not necessarily mutually exclusive, and both approaches have merit. To assist my consideration, I have looked at the various planning documents that have been referred to by the various experts.
69. The District Plan includes the area as part of the Commercial Central City Business Zone, which provides for commercial buildings and activities at a significant scale. The Strategic objectives are about revitalising the Central City as the primary community focal point for the people of Christchurch, and creating a high amenity urban environment for residents, visitors and workers. The amenity policies require urban design assessments within the Core (not Victoria Street), and the Plan has a range of height limits, setbacks and recession planes.
70. The District Plan identifies a number of entertainment and hospitality precincts (one of which is Victoria Street), which provide noise controls for activities in these areas, and encourage entertainment and hospitality activities, including late night trading, to locate in these areas. These policies also seek to protect the viability of existing entertainment and hospitality investment, particularly that which has occurred in the Central City since the earthquakes.
71. The District Plan policies also seek an enhanced pedestrian environment that is accessible, pleasant, safe and attractive. These are achieved by requiring pedestrian oriented activities to face the street in some areas (not Victoria Street), development controls that support a pedestrian focus, establishing a slow street traffic environment, and ensuring high quality public space design and amenity. Victoria Street is classified as a local distributor road. The document An Accessible City (part of the Central City Recovery Plan) identifies Victoria Street as a key walking, cycling and public transport route. It is likely that Victoria Street will transition to a higher quality more intensively used pedestrian environment.
72. There is no reference in the District Plan to Victoria Street being a gateway, although there is a reference in the Strategic Objectives and the Recovery Plan to “a green edge and gateway to the City defined by the Frame and Hagley Park”.
73. I return to the two different descriptions of the place of Victoria Street described by the experts for the Applicant and the Council. Neither seems to be particularly defined or legitimised by the District Plan or associated documents. I have reached the conclusion that both are right. The Plan supports the development of a high-quality environment, public realm, and pedestrian focus. It also supports the role of Victoria Street as an entertainment and hospitality area, and the enlivening of the area, including late night trading, is compatible with that function. There is no District Plan identification of Victoria Street as a gateway to the central city, although fulfilling that function would not be at any odds with the District Plan Objectives and Policies. I tend to agree that if it does have a gateway function it is more at the Bealey Avenue end. The Plan does not signal any particular attention that needs to be given to development opportunities in Victoria Street as opposed to other areas of the Central City.

Digital Billboards

74. The District Plan provides a set of assessment matters for the consideration of applications for static and digital billboards (with a restricted discretionary status). It is worth noting that the assessment criteria are the same for static and digital signs, although some of the criteria are more particularly relevant to digital signs. A number of those assessment matters are relevant to the amenity issues. I will set out the relevant assessment matters later in my consideration of this application.
75. It is also worth understanding the policy framework with regard to signage. The overall Objective (Objective 6.8.2.1) states that;

Signage collectively contributes to Christchurch's vitality and recovery by:

- i. Supporting the needs of business, infrastructure, and community activities
- ii. Maintaining public safety; and
- iii. Enhancing the visual amenity values and character of the surrounding area, building or structures

76. The Plan then has a number of Policies which

- Enable signage....as an integral component of commercial and industrial environments....
- Controls signage in sensitive locations (which relates to residential, open space and rural zones)
- Manages the potential effects of signage (which includes the character and visual amenity of the surrounding area, integrating with the façade of a building, being in proportion with the scale of buildings and the size of the site, and which enhance the Central City)
- Ensure that signs do not cause obstruction and/or distraction for motorists and pedestrians and other road users
- Limit off-site signage in the sensitive zones
- Enable off-site signage in other areas (where it is compatible with the surrounding environment, located within a commercial or industrial context, is appropriately maintained, and will not cause or contribute to visual clutter and other cumulative adverse effects).

77. I take it from the above that the District Plan enables signage, including off-site signage, particularly in commercial and industrial environment (more so in industrial), as it contributes to Christchurch's vitality and recovery. In those areas, the potential (mainly visual) effects are to be managed, and the Plan seeks to ensure that signs do not cause obstruction or distraction. The billboard is not in a sensitive area (eg residential) such that it needs to be controlled, although it can be seen obliquely from some residentially zoned sites.

78. The District Plan also has different standards that apply to signs and billboards in various zones, referred to by Council witnesses as a hierarchy of acceptability. In all industrial and some commercial zones (Commercial Retail Park, Commercial Mixed Use, and Special Purpose Airport), billboards are a permitted activity where they meet a set of standards (including being less than 18m² in area, less than 9m high, and on an arterial or collector road). In commercial zones they are a restricted discretionary activity where they are less than 8m² in area and 9m height. In residential areas there are no permitted billboards. The Plan therefore makes it easier for billboards to locate in industrial zones, and does not envisage billboards in residential zones. In most Commercial zones (including the Central City zone) they are a discretionary activity above defined reasonably low activity standards. I think it is going too far to say that they are encouraged in, or directed to, industrial zones rather than commercial zones, but I think it can be said that applications in commercial zones are anticipated, but they need to be considered carefully against the assessment matters set out in the Plan.

Principal issue - Visual Amenity

79. It is agreed that the principal issue with respect to this application is visual amenity. There are no traffic safety issues that need to be "ensured". The increase in duration time to 10 seconds has removed any minor concerns about traffic safety because of the lower speed limits (30kph) in the central city.

80. The proposed digital billboard is proposed to sit on the blank side wall of an existing four storey building, facing people and traffic who are travelling into the City along Victoria Street. It is a relatively large billboard (46m²) located from the top of the building. It occupies 14% of the side wall, although it occupies over 30% of the wall that can be seen above the buildings on the adjoining site. It first comes into view from about the intersection of Montreal and Salisbury Streets, although it is screened for most of the year at that distance by a large deciduous tree in the nearby pocket park on the corner of Peterborough Street. It becomes more obvious as one moves along Victoria Street. It is reasonably prominent as one gets closer to the billboard, and from the pocket park on the corner of Peterborough Street. It can be seen obliquely at one end of the other pocket park on the Peterborough frontage of the Casino, but not from most of that pocket park. There are two other billboards in the stretch of Victoria Street from Montreal/Salisbury, one digital and one static. It is agreed that only one of those billboards can be seen at any one time in conjunction with the new proposed billboard.
81. As mentioned earlier, the billboard is not in a sensitive zone (e.g. residential) such that it needs to be controlled. It would be able to be seen obliquely from two residentially zoned locations, but none of the experts raised that as a concern. It would be in the view of some of the proposed residential units in a proposed residential development on the nearby site at 48 and 52 Peterborough Street, but that development is within the Central City Commercial Zone, and the advice before me is that glare and light-spill will be at an acceptable level.
82. The District Plan therefore enables signage in a Commercial zone, provided any potential effects are managed, and the District Plan provides a set of assessment criteria for the consideration of billboards. They come into consideration because this billboard is larger than 8m² and higher than 9m. I will work my way through the assessment matters as they relate to visual amenity.
- a) Whether the scale, design, colour, location and nature of the billboard will have impacts on the architectural integrity, amenity value, character, visual coherence...of...the building on which the billboard is displayed and its ability to accommodate the signage; on the surrounding area (including anticipated changes in the area); on residential activities; or on heritage settings, open spaces, protected trees or areas possessing significant natural values.

Mr Craig considered that the billboard is fundamentally an architectural feature that is consistent with the form, proportion and materials of the relatively simple and rectilinear façade of the existing building. Mr Craig, and Mr Clease, consider that the billboard adds to and enhances the current blank wall. Mr Hattam accepts that the billboard does have some alignment with the design elements of the existing building, but he considers that because the billboard is large and eye-catching, it does not integrate well with the building. For him it is principally a matter of size, although when questioned he considered that the billboard would need to be much smaller, and more people scale oriented, to be acceptable. My conclusion is that I prefer the conclusions of Mr Craig, and I accept that the proposed billboard fits with the architectural integrity and character of the building.

With regard to the surrounding area, Mr Craig describes it as variable in terms of buildings and amenity, with low to moderate street amenity. He does not consider the area to be especially significant compared to areas such as Worcester Boulevard, Cashel Street Mall, or New Regent Street. Mr Hattam describes the surrounding area as having high quality built form, with a range of activities that are attractive to people, and a medium quality public realm with the potential for ongoing improvement. He considers that the billboard does not fit with the character of the surrounding area, and that it would

distract from the human scale of the street by out-competing the existing elements for the observer's attention. My conclusion falls somewhere between these two views. I consider the surrounding environment to be closer to the views of Mr Hattam, although I think he overstates the impact of the billboard on the quality and use of Victoria Street. Essentially his approach would render any billboard much over the permitted size to be inappropriate, and that is clearly not the conclusion reached by other decision makers (including myself) on other billboard applications.

All parties accepted that impacts on residential properties are limited, and that for those in the proposed new residential building within the commercial zone, the effects of commercial activities, such as digital billboards, is to be expected.

It is also agreed that there are limited effects on heritage buildings and settings, with the billboard not being significantly visible from any of the nearby listed buildings. Mr Hattam was concerned about the billboard being visible from, and in his view dominating, the two nearby pocket parks. Mr Craig accepts the billboard will be visible from parts of the parks, but does not think that it will affect people's enjoyment of those pocket parks. I prefer the views of Mr Craig. Views from the pocket park adjacent to the Casino are extremely limited and only from one end. The other pocket park by Peterborough Street is more of a visual amenity feature rather than a highly used public park, with views from it in several directions, only one of which is towards the proposed billboard. I do not think that it will dominate the pocket park, although it will be part of the visual landscape.

- b) Whether the extent of the impacts of the billboard are increased or lessened due to...the design, dimensions, nature, or colour of the sign or support structure, the level of visibility of the billboard, and vegetation or other mitigating features.

Mr Craig is of the view that visibility of the billboard is highly variable, and often partially or fully obscured by trees and intervening buildings. He sees the visual catchment as quite confined and small, mostly involving the public realm of Victoria Street and Peterborough Street, and only in one direction. Mr Hattam is of the view that visibility is considerable and dominating. Again, I conclude that the reality is somewhere between those two views. The billboard will be prominent, but not to the extent that it dominates the environment.

- c) Whether the billboard combines with existing signage...in the vicinity, to create visual clutter or set a precedent for further similar signage.

The issue of clutter and cumulative effects is an issue that attracted considerable attention in the evidence and at the hearing. I will address this issue later in this decision.

- d) Whether the billboard enlivens a space or screens unsightly activities, and will result in an orderly and coordinated display.

Mr Craig accepts that the billboard will not screen unsightly activity, but that it will enliven a currently blank, grey, monolithic and featureless concrete wall that has no aesthetic merit. He considers that the billboard will introduce colour, light and interesting images. It is located in an area where at night there is a reasonably high level of illumination, namely from the Casino and nearby restaurants and bars. Mr Cleese referred to this as creating some urban buzz. Mr Hattam accepted that the existing blank wall is not an attractive feature, but that neither is it an unsightly activity. He did not consider that Victoria Street requires any additional enlivening. It is a street with activation and activity, and a pleasant place to spend time. He did not see the billboard bringing positive effects. Indeed, he considered the out of scale graphics would be distracting and detract from the environment. I prefer the views of Mr Craig, and depending on the consideration of other

matters, such as cumulative effects and amenity, the billboard will improve a currently blank wall, and will contribute to the enlivenment of the area, especially at night-time.

- e) Whether the extent of the impacts of the billboard are increased or lessened due to...the proposed periods of illumination and frequency of image changes, the prominence of the billboard due to its illuminated...nature and ability to draw the eye, the nature of surrounding land use activities, the proximity of the display to other properties and the likely effects of such...changing images upon those properties and their occupants.

Mr Craig accepts that the illuminated and changing nature of the billboard will make the billboard prominent, but that it will not appear dominant. He describes dominance occurring when the appreciation of the surrounding landscape is usurped by the presence of the dominant object. Mr Hattam considers that the transitions between images will detract from the character and amenity of the area, especially for people staying in the area for some period of time. He considers that the motion of image change is attracting to the eye. He also considers that a large illuminated billboard will detract from the night-time amenity, mainly because of its scale and prominence. He accepts illumination at street level for the hospitality businesses, but considers that illumination higher up a building is inappropriate. I consider that Mr Craig's definition of dominance is too high a test, and that the issue is more the degree of prominence. I also think Mr Hattam goes too far in his opposition to illumination, and transitions, particularly in a commercial environment that is also identified as an area to attract hospitality and entertainment facilities.

83. Taken overall, my consideration of the assessment matters has led me to the conclusion that considered on its own (ie not taking into account any cumulative effects), this proposed billboard generally aligns with and does not offend the assessment criteria. I accept that the proposed billboard fits with the architectural integrity and character of the existing building. I have concluded that on balance the billboard is compatible with the generally high character of the surrounding area. The effects on residential activities are limited. There are also limited effects on heritage buildings. While the billboard will be prominent from some views within the pocket park in Peterborough Street, it will not be dominant. The billboard has the potential to add to and enliven the night-time hospitality and entertainment precinct, and it will improve the appearance of a currently blank side wall of the building.

Boffa Miskell Report – Technical Review of Visual Effects of LED Billboards

84. Both Mr Clease and Mr Hattam referred to a recently completed report from Boffa Miskell, prepared for the Christchurch City Council, on Visual Effects from LED Billboards. While that report has no statutory basis, it is a useful report to use as another set of criteria (recommendations) to consider. The report contains 8 recommendations for best practice guidance.
- i. Signs as secondary urban elements. Much of this recommendation relates to free standing signs and the disruption of views, sightlines, and sensitive views, and not installing billboards at a grade to increase sightlines. It does talk about signs not being as the same scale as buildings, and in areas frequented by pedestrians to take account of the human scale of billboards. I have addressed those latter matters during my consideration of the District Plan assessment matters. The degree to which the billboard is at a human scale is probably the aspect of this recommendation that requires some consideration.
 - ii. Legibility and identification. This recommendation refers to on-premise advertising being more acceptable for legibility and identification, with non-site related

advertising lacking these spatial or place based benefits. Mr Clease commented that in the central city, non-site related advertising has less impact on legibility, and will be more of an inherent component of the mixed-use environment. Mr Hattam disagreed with that assumption, and referred to photographs of other cities he produced showing a lack of billboards. Those photographs were somewhat selective, and I agree with Mr Clease that non-site related advertising is expected and appropriate in some places in the Central City.

- iii. Visual backdrop and size. This recommendation describes the benefits of a sign against the backdrop of a building, and not viewed against the sky. It discusses the size of a sign as an important factor in determining its overall visual impact. It suggests 35m² as a generally appropriate maximum size of billboard. Mr Clease considered that given the location of the billboard on part of the side of a building, and being in an entertainment and hospitality area, the 46m² billboard was not out of context. Mr Hattam considered 35m² to be a maximum recommendation, although his other evidence suggested that even 35m² was significantly too large.
- iv. Avoid significant buildings and landscapes. This recommendation considers it important to avoid architecturally important, historic, or public buildings for wall mounted billboards. It also recommends that design solutions are sympathetic to the built form, that signs do not inhibit the visual interaction of a building with the street scene, and that an unattractive industrial appearance is avoided. Mr Clease considered that the billboard met this recommendation, and Mr Hattam did not disagree.
- v. Integration with architecture. This recommendation talks about the potential to mitigate any adverse amenity effects through specific design solutions for the sign or the location, including choice of colours and quality materials. Mr Clease referred to the relocation of the billboard 300mm from the top and side of the building, and wrapping the front façade cladding around to meet the sign. Mr Hattam accepted that as an improvement.
- vi. Appropriateness relating to zoning. This recommendation refers to billboards being more appropriate in industrial and strip based commercial areas, less appropriate in commercial areas, and generally not appropriate in residential, rural, open space and pedestrian oriented civic areas. While that hierarchy may be a little simplistic, it does highlight that this billboard is in a middle category where billboards are neither encouraged, nor discouraged.
- vii. Driver safety and distraction. This recommendation relates to intersections and complex driving areas, which both parties agreed do not apply to this application.
- viii. Cumulative effects. This recommendation refers to the cumulative effects of multiple signs. I will discuss that matter later in this decision.

85. The consideration against these recommendations has re-enforced the conclusions that I reached on the District Plan assessment criteria. The main issues raised through this consideration are whether the billboard is at odds with the human scale of Victoria Street, whether the sign is too large (over 35m²), and any cumulative effects. The sign cannot really be described as at a human scale, but being above eye level on the (upper) side of a 4-storey building I do not think that the human scale is such an issue. I have considered whether a smaller billboard would have different effects, and have concluded that a reduction to 35m² or there-about would make little difference to my conclusion. I will consider the cumulative effects later. The concept of a hierarchy of acceptability for billboards may not be specifically defined in the District Plan, but it does highlight that billboards in the commercial areas, including the Central City are acceptable (even enabled) but require careful consideration.

Cumulative Visual Effects

86. This proposed billboard will add to 5 other billboards already approved and existing in Victoria Street. With this new billboard there will be 3 billboards within a distance of 100m along the stretch of Victoria Street from Salisbury/Montreal Streets and Kilmore/Durham Streets. All face the north-west and can be seen as one travels along Victoria Street into the City. At any one time only 2 of these billboards will be seen together. There is also a sequence of billboards as one travels the full length of Victoria Street into the City.
87. Mr Hattam is concerned about the extent of signage within a short distance (100m) and considers that this represents a step-change in the frequency of signage, from one where there is likely to be a single prominent sign to one where there are several. He is also concerned about the sequential experience of billboards as one moves along Victoria Street. He considers that this amounts to cumulative adverse effects, greater than those generated by existing signage and in addition to the adverse effects generated by the proposal in its own right.
88. Mr Enersen is also concerned about cumulative effects. Within the immediate environment he considers that the 3 billboards create a cluttering effect. He accepts that all 3 billboards cannot be seen at one time but agrees with Mr Hattam that there are still significant cumulative effects. He considers that the display of advertising could become the most prominent feature in the street scene which is not in keeping with the character of the surrounding area. Mr Enersen is also concerned about the sequential experience of billboards along the length of Victoria Street, and he considers that another large digital billboard will exceed the capacity for Victoria Street to absorb the associated cumulative effects on the amenity.
89. Mr Craig considers it relevant that all three signs cannot be seen together at any one time, with one or more being screened by intervening vegetation or parts of buildings. He also considers that they are more acceptable because the signs are attached to buildings rather than being freestanding, which means that the physical fabric and integrity of the built environment remains coherent and visually intact. He also notes that billboards are temporary, as new buildings are built and block then existing billboards.
90. Mr Clease considers that existing signage is well integrated into building facades, and the area does not display high levels of visual clutter. He points out that while there will be 3 billboards within 100m, these 3 billboards are also within nearly half a kilometre. He also considers that more digital billboards, rather than being necessarily adverse, add to the night time environment of the entertainment and hospitality area. He noted that the 5 existing billboards had all been through consenting processes where each has been found to have acceptable effects, and all at a time when their activity status was as a non-complying activity. He concludes that it appears to be a long bow that the erection of the proposed LED display on the blank wall of a building crosses the threshold that the cumulative effects have reached the point where this application should be declined on the grounds of cumulative effects.
91. The District Plan includes an assessment matter for billboards with respect to cumulative effects;
- “whether the signage combines with existing signage on the building, the site or in the vicinity to create visual clutter or set a precedent for further similar signage”*
92. The Boffa Miskell recommendations also include a clause on cumulative effects;

“cumulative effects of multiple signs in an area should be considered and determination of appropriate minimum spacing and size/proportion may be necessary for some areas. While LED signs can lead to the consolidation of outdoor signage, as multiple advertising copy can be displayed on the one piece of infrastructure, numerous signs within a visual catchment can also cause visual clutter. Encourage the removal or replacement of old, poorly maintained, inadequately secured or redundant billboards and signs. Wall mounted billboards are generally easier to integrate into the urban context without adding clutter. A maximum of one billboard within a viewing distance of 100m would generally be considered appropriate”.

93. I am mindful that the above recommendations have no statutory basis, but it is a useful statement. It confirms that there can be cumulative effects. It identifies the benefits of accumulation of advertising through digital billboards, although there is no evidence of such effects directly arising from this billboard. There is no suggestion of removing other signage. It confirms the view that wall mounted billboards are easier to integrate into the urban context without adding clutter. And it suggests a maximum of one billboard within a 100m viewing distance.
94. The 100m viewing distance is a figure that the experts for the Council have used for justifying their view that there are adverse cumulative effects of 3 billboards within 100m. Mr Hattam also identified 100m as the general distance within which a billboard can be viewed. However, I note that the words used (generally be considered appropriate) are not an exclusion, and it is not a standard derived from the District Plan.
95. I also note that in his decision on the digital billboard at 50 Victoria Street (which is the closest billboard to this application) in September 2016, Commissioner Mountfort made the following comments;

“The restriction of signs that do not relate to on-site activities is intended to reduce the overall amount of signage and therefore avoid cumulative effects. I accept that if there is a proliferation of signage, at some point there will be cumulative adverse effects. In particular there are two other similar electronic billboard signs already in Victoria Street. They are well-separated and cannot be viewed together. I do not believe that Victoria Street has reached the point of excessive and cumulative signage yet, but the time may come when it does”

96. This application will make a fourth digital billboard (plus two static billboards), and 3 of the billboards (two digital and one static) can in various combinations be seen together (no more than two at a time). My challenge is to determine whether the point of excessive and cumulative signage on at least this part of Victoria Street has been reached. My conclusion is reasonably finely balanced, but I have decided to take into account some positive benefits of the billboard (more on that follows in this decision), and the nature of Victoria Street (discussed earlier in this decision) to reach a conclusion that the point of excessive and cumulative effects has still not been reached by the addition of this billboard to this stretch of Victoria Street.

Other Effects

97. It is agreed by the parties that the potential adverse effects on traffic safety are less than minor. Ms Shelley Perfect undertook a specialist traffic review for the Council. She concluded that the billboard location was sufficiently removed from intersections, and she also noted the lower speed environment (30kph). Because of that lower speed limit there is

the potential for motorists to see up to 3 transitions if the display change occurs at 8 second intervals. On that basis she recommended an increase to 10 second minimum change intervals, and the Applicant has agreed to that change.

98. It is also agreed that the effects of glare and light spill will be less than minor. Effects on the proposed residential units at 48 and 52 Victoria Street are also considered to be acceptable given that the development is in a Commercial zone.
99. One submission referred to possible effects on an outdoor dining area which is located directly below the proposed billboard. I am satisfied that the billboard will be high enough up the wall of the building such that it will not have adverse effects on the enjoyment of that outdoor dining area.
100. It is also agreed that effects on heritage values are minor at most, and acceptable. The Jubilee Clocktower, and the Victoria Mansions are the closest heritage buildings, and the distance and changes of angle of Victoria Street limit the extent to which the billboard could detract from views of these heritage buildings. Ironside House and the former Teachers College buildings are sufficiently removed so as not to be affected.

Entertainment and Hospitality Precinct

101. Victoria Street is one of a number of Entertainment and Hospitality Precincts introduced into the District Plan through the Christchurch Central Recovery Plan. The main consequence of those provisions is to set noise standards that enable the premises to operate, while still taking account of effects on any nearby residential areas. However, the objectives and policies introduced into the District Plan, modified by decisions of the Independent Hearings Panel, encourage entertainment and hospitality premises (including late night trading) to locate in these defined precincts. They also seek to protect the viability of existing entertainment and hospitality investment which has occurred in the Central City since the Canterbury earthquakes.
102. Ms Appleyard, and Mr Clease, for the Applicant, contend that these provisions have an impact on the character of Victoria Street, such that illuminated advertising adds to the urban feel or buzz of Victoria Street, especially at night. I accept that there is some merit in that argument, and I have taken it into account in my earlier considerations of the character of Victoria Street.
103. They also contend that the support for investment in this area is a positive factor supporting the income received for building owners from billboard advertising. The building the subject of this application is currently vacant above street level, and additional revenue from the billboard will support the continued operation of the building. I think that it is going too far to say that this billboard is therefore encouraged by the objectives and policies of the District plan relating to the entertainment and hospitality precinct, but I do accept that it is a positive effect that can be taken into account.

Other Positive Effects

104. The proposed billboard will cover part of a currently blank and unattractive wall, and that has some limited positive advantage.
105. Digital billboards do have the advantage of bringing together in one place a number (6 or 8) advertising opportunities. It may be over time that they lead to a reduction in static non-site related billboards.

Precedent

106. The conclusions that I have reached are based on this particular billboard and location. As such they do not create a precedent, nor are they likely to lead to a proliferation of signs.
107. However, the issue of cumulative effects, particularly on Victoria Street, is likely to arise again, and as such the discussion and conclusions in this decision may have some bearing on future applications.

Objectives and Policies

108. I discussed the objectives and policies in relation to signage earlier in this decision. In summary, the objectives and policies that specifically relate to signage enable signage, including non-site related signage, particularly in commercial and industrial environments, as it contributes to Christchurch's vitality and recovery. In those areas, the potential mainly visual effects are to be managed, and the Plan seeks to ensure that signs do not cause obstruction or distraction. I have covered these matters in my assessment of adverse effects, and my conclusions mean that I have reached the conclusion that this billboard is generally consistent with the signage objectives and policies.
109. Mr Clease and Mr Enersen reached generally opposite conclusions from each other with regard to the signage objectives and policies, but that is expected because they reached different conclusions with regard to visual amenity.
110. Both Mr Clease and Mr Enersen also carried out a wider assessment of objectives and policies relating to Strategic Directions and Commercial zones. Mr Clease considers that the proposed billboard is consistent with the importance of business and economic prosperity to the recovery of Christchurch, and that it supports a high quality urban environment because it changes the current blank wall to a visually interesting display as part of a late-night entertainment precinct. He also considers that it assists with, and provides private sector investment for, revitalising the Central City as the primary community focal point for the people of Christchurch, and that it is consistent with the Plan's policy approach for the Central City.
111. Mr Enersen accepts that the proposed billboard will assist with business and economic prosperity, but that it will not result in a high quality urban environment that is attractive to residents, businesses and visitors, and that it will not maintain or enhance the Central City.
112. Mr Enersen considers that the policy and rules framework for the District Plan implies a hierarchy that directs larger non-site related signage to industrial and some suburban commercial areas rather than the Central City commercial area, and certainly not to sensitive areas. Mr Clease contends that digital signage is still compatible with the Central City area, subject to a case by case assessment.
113. Overall, based on my conclusions on effects through this decision, I am satisfied that allowing this particular digital billboard is generally consistent with the Strategic and Commercial Objectives and Policies of the Christchurch District Plan, and I am more comfortable with the conclusions of Mr Clease.
114. I accept that advertising signs and billboards do have a place in the Recovery of Christchurch, adding income for building owners, and advertising opportunities. They can

also add to the sense of vitality and recovery as Christchurch rebuilds. However, the potential adverse amenity (and traffic) impacts also need to be considered.

Part 2 of the Act

115. I am aware that there are conflicting legal decisions about the weight to be given to Part 2 of the Act in a Section 104 assessment. For the purposes of this decision I have given consideration to Part 2.

116. The purpose of the Act is to promote the sustainable management of natural and physical resources. Section 5 imposes a duty on consent authorities to promote sustainable management while avoiding, remedying or mitigating adverse effects of activities on the environment. I do not consider that there are any matters in Section 6 (matters of national importance), or Section 8 (Treaty of Waitangi) that apply. I have had regard to Section 7, and I consider that the proposed billboard will be consistent with the maintenance and enhancement of amenity values, and the quality of the environment.

Conditions

117. Pursuant to Section 108 I may impose conditions. A set of agreed conditions, should I decide to grant the application, was supplied to me following the hearing. They are a reasonably standard set of conditions for a digital billboard, with the 10 second minimum duration being the main condition particular to this application.

Decision

118. For the above reasons the application to construct a new digital billboard on a building located at 65-67 Victoria Street is **granted** pursuant to Sections 104, 104B and 108 of the Resource Management Act 1991, subject to the following conditions;

1. Except as required by subsequent conditions the development shall proceed in accordance with the information and plans submitted with the application and further information on the 3rd July 2017. The Approved Consent Documentation has been entered into Council records as RMA/2017/1276.
2. Only still images shall be displayed on the sign.
3. The minimum duration of each image shall be 10 seconds.
4. There shall be no transitions between still images other than:
 - (a) An immediate change; or
 - (b) A cross-dissolve between images of a maximum of 0.5 seconds.
5. The sign shall not contain any of the following on the display screen:
 - (a) Live broadcast or pre-recorded video;
 - (b) Movement or animation of the images;
 - (c) Flashing images or retro-reflective material;

- (d) A split sign (more than one advertisement on the screen at the same time).
- 6. There shall be no sound equipment installed as part of the screen and no audio or sound broadcast associated with the sign.
- 7. Images shall not use graphics, colours or shapes in such a way that they would resemble or distract from a traffic control device.
- 8. The luminance of the LED display shall not exceed the following:
 - (a) Outside of daylight hours the maximum luminance of any part of the sign shall not exceed 500 cd/m²; and
 - (b) During daylight hours (including dawn and dusk) the maximum luminance of any part of the sign shall not exceed 5,000 cd/m².
- 9. The vertical and horizontal lux spill from the LED billboard shall not exceed the following:
 - (a) 20.0 lux spill within the surrounding Commercial Central City Business Zone;
 - (b) 4.0 lux spill when measured 2 metres inside the Open Space Community Park Zones at 40 and 81 Victoria Street; and
 - (c) 4.0 lux spill when measured 2 metres inside the Residential Zone at 44 Peterborough Street.
- 10. The applicant is required to provide a letter of compliance to the Christchurch City Council within 7 days of installation and operation of the sign. This letter shall:
 - (a) Demonstrate compliance with the maximum luminance levels required by condition 8(a) and (b);
 - (b) Demonstrate compliance with the maximum vertical and horizontal lux spill as set out under condition 9(a)(b) and (c);
 - (c) Be undertaken by an appropriately qualified lighting engineer/designer;
 - (d) Be submitted to Christchurch City Council's Environmental Monitoring Team (envresourcemonitoring@ccc.govt.nz) within 48 hours of the audit being completed.
- 11. The LED screen shall incorporate lighting controls to adjust brightness in line with ambient light levels
- 12. In the event of a sign failure, the sign shall default to either a black or white screen.

Ken Lawn
Independent Commissioner

16 January 2018