

**BEFORE AN INDEPENDENT COMMISSIONER
ON BEHALF OF THE CHRISTCHURCH CITY COUNCIL**

In the matter of the Resource Management Act 1991

And

In the matter of application RMA/2020/1877 by Wilsons Parking Ltd to
establish freestanding offsite digital signage on a site at 235
Manchester St, Christchurch

DECISION OF THE INDEPENDENT COMMISSIONER

Application Reference:	RMA2020/1877
Applicant:	Wilson's Parking Ltd
Site address:	253 Manchester St, Christchurch
Legal Description:	Part Section 688-697 Town of Christchurch
Proposal:	To establish freestanding offsite digital signage on the site
Date of Hearing:	1 March 2022

Introduction

1. This is an application to establish digital signage at the site at 235 Manchester St in central Christchurch.
2. The application was processed on a publicly notified basis.
3. A draft set of conditions submitted with the application.
4. I was appointed by the Christchurch City Council and given delegated authority to hear and decide the application.

The submissions

5. There eight submissions in opposition and one in support. Submissions were lodged by
 - Susan McAlister
 - Murette Wells
 - Brindi Joy
 - Katrin McAra
 - Ian Wells
 - David Maclure
 - Maurice Roers
 - Yatten Lallu
 - Heritage Christchurch

The hearing

6. I conducted a hearing on 1 March 2022. Due to Covid 19 circumstances I attended the hearing remotely, by Zoom, as did several others. The following people were present at the hearing:

Applicant

- Ms. Alex Booker (solicitor, in person)
- Ms. Anita Collie (planner, in person)
- Mr. David Compton-Moen (urban designer, in person)
- Mr. Peter Turner (applicant, in person)
- Mr. Andrew Carr (traffic engineer, via Zoom)
- Mr. Brett Harries (traffic engineer, via Zoom)

Christchurch City Council

Mr. Hugh Nicholson (urban designer, in person)

Mr. Axel Downard-Wilke (traffic engineer, via Zoom).

Ms. Georgia Brown (planner, in person)

Submitters:

Ms. Kat McAra (via Zoom)

Ms. Murette Wells (in person)

The Proposal

- The proposal, as originally applied for, has the following main features:
 - The structure will measure 9m (height) by 4m (width), with the digital screen measuring 6m (height) by 3m (width).
 - The structure will have a total area of 36m² on each side, with the screen encompassing 18m² of this. The structure and sign will be double-sided.
 - The structure will incorporate climbing landscaping around the digital screen.
 - The billboard will feature advertising that has no relationship to the site.
 - Advertising images will be static (no moving or flashing images proposed), and it will contain an inbuilt daylight sensor able to be calibrated to meet required luminance values for day and night time operation.
 - The applicant proposes a condition that the sign will result in no more than 10 lux spill of light when measured 2m within the boundary of any adjacent site.
 - Image duration is proposed to be 8 seconds.
 - The applicant proposes maximum luminance levels of 5000cd/m² at any time, and 175cd/m² between astronomical dusk and dawn.
 - The billboard will be located at least 40m south of the traffic signals for the Manchester Street/Gloucester Street intersection, and 50m north of the traffic signals for the Manchester Street/Worcester Street intersection.
 - The applicant has provided a list of volunteered conditions as part of their application.
7. Before the hearing the applicant modified the proposal by deleting the climbing landscaping and its supporting surrounding framework.
 8. Following the hearing, in the closing submissions, the applicant modified the proposal again by lowering the total height to 8m and placing the sign on a solid metal base rather than the single pole originally proposed.

Description of site and existing environment

9. The subject site is a 719m² currently undeveloped section on the eastern side of the Central City Core Overlay. The site sits on the western side of Manchester Street, mid-block between Gloucester Street and Worcester Street, and is zoned as Commercial Central City Business Zone. Manchester Street is identified in the District Plan as a Central City Local Distributor Road and has a 30km/hr speed limit. This sign is proposed to be located 40m south of the signalised intersection of Gloucester Street and Manchester Street; and 50m north of the signalised intersection of Worcester Street and Manchester Street.
10. The site is currently used as a Wilson's Car Parking Site consented under RMA/2018/1437.
11. The location of the proposed sign is shown in Figure 1 below and a visualisation of the sign in its last iteration is shown in Figure 2.



Location of the proposed sign – Sourced from Council’s notification report



Figure 2 – Visualisation of proposed sign views south-west from 192 Gloucester St, sourced from the closing submissions

12. Land on the opposite side of Manchester St, although in the Commercial Central City Zone is owned by Central Government’s earthquake recovery and regeneration agency Otakaro Ltd and designated in the district plan as *V4 The Frame – North and East*. This is a strip of land extending for 5 City blocks along the east side of Manchester St. The purposes of the designation include open space, park land, family playground, walking/cycling tracks, stormwater management, memorial sites, residential units, retail/food and beverage, Christchurch club, amenities, temporary activities, public art, leisure and recreational activities and facilities including gymnasium facilities and ancillary activities including car parking¹. The relationship of this designation to the application site is shown in Figure 3 below

¹ Christchurch District Plan, Chapter 10, V4 Otakaro Ltd

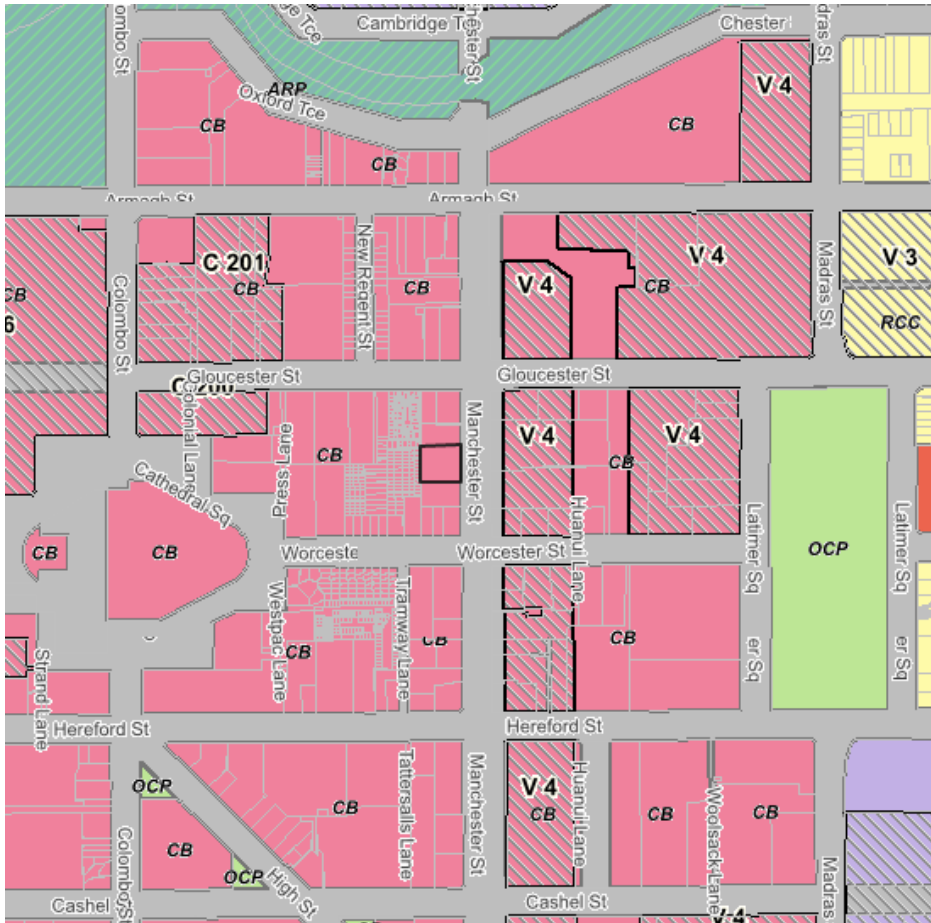


Figure 3 – Relationship of subject site to Otakaro V4 designation. Subject site is shown with a yellow star. Taken from Council’s report for the hearing.

13. The 5 block frontages along the east side of Manchester St are being progressively developed for high density multi -storey residential housing, as part of the earthquake recovery programme. Plans have recently been announced for the development of the block face opposite the site, although the consenting process for this proposal has not yet commenced.

The planning framework

14. 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.

15. Ms Brown in her report for the Council wrote that

The permitted baseline includes static signs associated with onsite activities measuring no greater than 9m² in area and situated at a height of no greater than 6m above ground level, pursuant to 6.8.4.1.1 P1 – and built form standard 6.8.4.2.6. Multiple signs can be established in association with the standard where there are multiple vehicle crossings and pedestrian entrances (one sign per each pedestrian entrance and one per each vehicle crossing). The application site includes a vehicle crossing and a pedestrian entrance, therefore enabling up to 11m² of permitted signage at the site. Such signage can be externally or internally illuminated. As evident, the difference between this application and the permitted baseline is the digital nature of

the sign and its changing images, and the greater area of signage. As such, I consider this permitted baseline relevant to a limited extent only.

The applicant has also put forward a permitted baseline relating to the establishment of digital signage where it is located internal of the building. Whilst this is noted, I note that the applicant is not proposing a billboard affixed to the inside of a building. Further, there are no mechanisms available to the applicant to lawfully establish a new building in the zone due to Rule 15.10.1.2 C1 and 15.10.1.3 RD1 which regulate the construction of a new building in the Central City Core, visible from a publicly owned and accessible space, and which require consideration against the urban design matters at Rule 15.13.2.6. As such I do not consider this a valid permitted baseline and have not taken it into consideration as part of my assessment.

16. I accept and adopt Ms Browns comments. I will consider this permitted baseline when considering the effects of this application

Rules

17. There are a number of infringements of various rules. These are set out in Ms Brown's report , which I reproduce for convenience.

Activity status rule	Standard not met	Reason	Matters of discretion
6.8.4.1.4 D1	-	The proposed billboard: a. Is not 'provided for' by: i. Rule 6.8.4.1.3 RD2 because it cannot meet the built form standard in Rule 6.8.4.2.6 (free standing signs). ii. Rules 6.8.4.1.1 P11 or P15, 6.8.4.1.3 RD3 or RD5, or 6.8.4.1.5 NC1 because it does not meet the description in those rules; b. Is: i. An off-site sign that is not 'provided for' by Rule 6.8.4.1.1 P2, P3, P4, P5, P6, P12, P13, or P16 because it does not meet the descriptions in those rules; and ii. A digital sign with changing images.	Not applicable
6.8.4.1.4 D2	6.8.4.1.3 RD2 Off-site digital billboard in a commercial zone which does not meet the relevant built form standards in Rule 6.8.4.2.6 (Free-standing signs	Permitted: For signs relating to vehicle entrances in the CCCB zone: - 2m maximum width; - 9m ² maximum total area; and - 6m maximum height. Proposed sign: - 4m wide; - 9m high; and - 36m ² total area Note: whilst the total area of sign measures 36m ² , the digital screen itself measures 18m ² .	Not applicable

18. For completeness, neither of the above rules include a notification clause.

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

The Submissions

20. Ms Brown summarised the reasons for the submissions as follows:

The submission in support is summarised as follows:

- *No specific reason provided, although in support of the proposal the submitter does not consider that the billboard should be surrounded with the mesh and plants. Considers it should just be free-standing with no mesh or landscaping.*

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

- *Billboards are distracting and stop a driver from being present.*
- *Consider that they are inappropriate in the central city environment where a higher standard of amenity is expected compared to other commercial or industrial zones*
- *Billboards result in visual clutter, there are already too many in the city.*
- *Potential amenity effects, the billboard will be incongruous with the current environment, as well as with the planned future environment which will consist of high quality commercial and residential buildings with a strong urban design and high level of pedestrian interaction. Consider that the billboard will detract from the redevelopment that is occurring in the surrounding area. Concerned that the billboard will impact on bike and pedestrian priority in the area, making travel more risky.*
- *Cannot rely on measurements of luminance to be predictive of the overall effect on traffic safety.*
- *Concerned with the oversized dimensions of the sign and highly powered intermittent illumination.*
- *Consider it will be intrusive for residents and hotel guests at the Heritage Hotel (Old Government Building), especially at night.*
- *Do not consider the billboard to fit within the character of the surrounding precinct, where several historic buildings are being reprised.*

One submitter also raised concern with the billboard and the distress it creates on people who suffer from migraines, PTSD, post-concussion health issues. They consider that billboards are not good for wellbeing or mental health. Another submitter comments in opposition that we should be consuming less, and therefore should be subjected to less advertising. Whilst these comments are acknowledged and appreciated, I note that they are outside the scope of resource management effects which I can consider.

21. To the extent these matters are relevant (and most of them are), I will discuss them in the commentary which follows.

The issues

22. Ms Brown summarised the issues raised by this application.

- *Amenity and character*
- *Light spill and luminance*
- *Traffic effects*
- *Heritage effects*

23. I accept that these were the major environmental issues raised by the application. I assess each of them in turn.

Assessment of adverse effects

Amenity and character

24. Expert evidence on this was provided for the applicant by Mr David Compton-Moen, a qualified and experienced planner, urban designer and landscape architect. He provided a helpful set of visual simulations from various viewpoint in the vicinity. He considered the proposal under the

objectives and policies of the district plan, and the matters for discretion for signage in the district plan although accepting that these are a guide only as this is a full discretionary activity. His conclusion was summed up in paragraphs 41 - 44 of his evidence where he wrote that

41. *In terms of effects on existing urban character, the proposed digital billboard will have less than minor effects on the receiving environment, with a Low magnitude of change to the amenity and character of the area. The receiving environment is not considered sensitive. I acknowledge that while the streetscape quality along Manchester St is high, the receiving environment is commercial with a high level of activity, movement and change. The current commercial character is transitory with significant amounts of building to occur but is not an environment which is sensitive. The heritage buildings are sufficiently distant that they are not affected by the proposal.*
 42. *For all current and future nearby residents, and with the conditions proposed, I consider that any adverse visual effects resulting from the digital billboard will be Less than Minor, with a Low sensitivity of change to the existing view when compared to both the current and anticipated receiving environments and a permitted baseline scenario.*
 43. *The existing environment contains high ambient light levels and based on my experience with assessing billboards in other parts of the city, I consider the proposed luminance to be standard and appropriate for the receiving environment.*
 44. *Over time, as the environment develops in accordance with the District Plan, while the sensitivity of the environment will increase, I consider that the proposed digital billboard will continue to have less than minor effects on the urban character and a Low Magnitude of Change on amenity.*
25. The evidence for the Council was presented by Mr Hugh Nicholson, also a qualified and experienced urban designer and landscape architect. He came to a completely different conclusion.
 26. At paragraph 4.1 of his evidence he wrote that
 - 4.1 *In my opinion the proposed freestanding double-sided digital billboard at 235 Manchester Street would create high adverse effects on the character and visual amenity of the high quality public spaces that have been completed as part of the upgrade of Manchester Street between Gloucester and Worcester Streets, and high adverse effects on the character and visual amenity of the residential units anticipated at 192 Gloucester Street. I note that there are lesser adverse effects on other surrounding areas.*
 27. He considered that if the sign was to be permitted at all it should only be for a temporary period of 5 years, or until the lot opposite at 192 Gloucester St is developed for residential housing, whichever came sooner. Although a Gloucester St address, in fact this property spans the entire frontage to Manchester St of the block opposite, between Gloucester and Worcester Streets, as shown in Figure 3 above.
 28. In considering such contrasting opinions, it seems to me that Mr Compton-Moen's approach was that this site and its immediate surrounds are typical of the Commercial Central City Zone in Christchurch with predominantly commercial land uses, a mixture of sites still vacant since the earthquakes, surviving pre-earthquake buildings and new buildings. He said that there are significant levels of traffic, bright lighting at night, and significant amounts of commercial signage, including digital signage. Most pedestrians passing through the area would be transitory and their experience of the sign would be brief. He acknowledged that large digital signs should preferably be attached to buildings but considered this example would be acceptable until its site is eventually redeveloped, particularly because the sign would be viewed against the buildings behind it and would not break the skyline.
 29. Mr Nicholson's opinion is based on his interpretation of the particular circumstances of this part of Manchester St. Since the earthquakes it has been developed quite differently from many other Central City Streets. It has been widened to 30 metres, with widened footpaths, an off-road cycle lanes and landscaping. There is significant provision for public transport, with "Super Stops" for buses, incorporating shelter and seating and many of the bus routes to and from the nearby central

Bus Exchange are now on Manchester St. There are no dedicated turning lanes at the intersections. Both sides of the street feature trees and other landscaping. The eastern side of the street will in the not too distant future be lined with high density medium-rise housing. In the meantime, there are other residential developments further to the east, whose residents will be easily able to see the sign, although at a greater distance, across the linear Raroa Park and the presently-vacant 192 Gloucester St “super block”. Speed limits on the street are low, at 30km/hr. Although, as I was told by several witnesses that Manchester St has been described in the Central City Earthquake Recovery Plan as the principal north-south transport route through the central city, in my opinion this is misleading. It is probably literally true, with the only other candidate being the adjacent Colombo St which is constricted by Cathedral Square and other features. However it ignores the fact that most drivers wanting to cross the central city to the north or south would prefer either of the one-way pairs in the near vicinity with their “green wave” traffic light phasing and multiple lanes, to a two-way slow street with a lot of pedestrians, buses and no traffic light phasing. The description is most true for the public transport system, and the roading layout appears to me to have been designed to discourage other through traffic.

30. Essentially Mr Nicholson regards the area as much more sensitive to the effects from this application than does Mr Compton-Moen.
31. After hearing from both witnesses and conducting a site visit, I have concluded that I agree with the opinions of Mr Nicholson. I consider that this is not just a typical inner City Commercial environment. Pedestrians are likely to stay longer in the area than in more typical inner city environments. The proposed sign is of a scale that it will visually dominate any pedestrians in the surrounding environment, and it will be clearly visible, distracting and possibly annoying to at least some of the present and future residents.
32. Mr Nicholson aid in answer to a question that the size scale and nature of this sign are more typical of what can be seen on arterial roads in industrial zones, and I accept that.
33. Mr Compton-Moen said that residents and other people in the area should be aware of the anticipated Commercial Central City environment, with its large buildings, traffic, bright lighting and proliferation of advertising signage. However that does not sit well with the fact that this is a full discretionary activity, subject to objectives and policies that require consideration of amenity effects, and the absence of any freestanding digital or other signage of this scale in the area.
34. I am also aware of caselaw to the effect that an anticipated development model that is over and above the permitted baseline should not be used when assessing the effects of an application such as this.²

Offered reduction in scale of the sign

35. In closing submissions for the applicant, Ms Booker proposed a slight modification of the sign. Under this the height would be lowered slightly, from 9 metres to 8 metres, and the pole on which it would be mounted changed to a solid plinth. I consider this modification to be very minor and not sufficient to change my conclusion on the effect on amenity,

Light spill and luminance

36. Mr Compton-Moen considered that the proposed lighting levels of the sign, measured by light spill and luminance would be appropriate in the area, given the prevailing lighting levels. For the Council, Ms Brown obtained a brief report from Council's in-house lighting expert, Senior Environmental Health Officer Ms. Isobel Stout, who confirmed that she had no major concern with regards to light spill, and the applicant's proposed condition that the sign shall result in no more than 10 lux spill when measured 2m within the boundary of an adjacent site would be acceptable in the event that consent is granted. With regard to luminance Ms Stout considered the key factor that must be in place to avoid undue brightness is an ambient light sensor which would ensure the brightness of the billboard will naturally adjust to ambient light levels regardless of the time of day.

² [2017] NZHC 2489

As this was incorporated in the applicant's proposed conditions Ms Stout and Ms Brown accepted that this would be acceptable.

37. Mr Nicholson took a different view, preferring the light spill and luminance levels to be reduced and that the sign not operate between 12 pm and 6 am, if the application was to be allowed, and that it be removed when the residential development across the street at No 192.
38. Although it is a moot point given my finding on general character and amenity, I record that I agree with the applicant and Ms Stout on the lighting effects.

Traffic effects

39. The potential effects of the proposed sign on traffic safety were one of the most heavily-contested aspects of this application and on this I was presented with two totally different sets of evidence from qualified and experienced experts.
40. For the applicant Mr Andrew Carr, a qualified and experienced traffic engineer prepared a report for the Assessment of Environmental Effects and summarised this in evidence at the hearing. Mr Carr is very experienced in this topic, having been involved in numerous consent applications. He has studied international research on the safety aspects of digital billboards and conducted research of his own.
41. For the Council evidence was given by Mr Axel Downard-Wilke, another highly experienced traffic engineer.
42. With regard to this particular site Mr Carr identified the critical location for distraction as the intersection as the Gloucester St/Manchester St intersection, a little to the south of the subject site, when viewed by drivers travelling in the southbound direction. Any issue with distraction would only arise when the driver was within the approach site distance (ASD) of the traffic signal. This is the short distance before a traffic signal in which a driver needs to make a decision whether to continue on or to stop.
43. A point of contention was the overlap of the signage with traffic signals, where the signal appears Mr Carr said that it appears to be common ground between Mr Downard-Wilke and himself that there is no visual overlap between the proposed billboard and three of the four signals at the Manchester Street / Gloucester Street intersection. There is overlap only for the signal head on the southwestern corner of the intersection (Signal Pole 5), but this overlap does not arise in the southbound traffic lane for general traffic at the point where drivers need to decide whether to stop at the traffic signals or not.
44. Rather, the overlap only occurs in the kerbside lane and only over a distance of 26m. This lane is used by buses to travel straight ahead and for general drivers to turn left (and the latter equates to peak hour flows of just 20 vehicles). He considered the effects of the proposed billboard on each of these movements and consider that these will be negligible. This is largely because he considered it highly likely that drivers will be looking towards the traffic signals that are directly in front of them and paying less heed to Signal Pole 5 which is on the diametric opposite corner of the intersection.
45. He also relies on the black backing board around modern traffic signal which separates the actual signal lamp from anything in its background and the "parallax effect". This is the effect of the traffic signal appearing to move across the face of the billboard as a driver approaches, making it more prominent and less likely to be confused with the billboard.
46. Although not directly referred to in his evidence at the hearing, in his Transport Assessment which accompanied the original application Mr Carr made reference to and enclosed a piece of his own research conducted in 2016, where he analysed crash records at sites mostly in Auckland but with several example in Christchurch, where billboards had been erected in close proximity to major intersections, and annexed a copy of this to the Assessment.³ Using the New Zealand

³ Comparison of Crash Rates Before and After Billboard Installation, Andrew Carr, 23 June 2016

Crash Analysis System (CAS) maintained by Waka Kotahi, the New Zealand Transport Agency, he analysed the cause of crashes at these intersections. The CAS system relies on reports by investigating police officers based on their interviews with the drivers causing crashes. Mr Carr was unable to identify any crashes attributable to distraction from the billboards.

47. I note that in the majority of the case studies, there was no question of the billboards being located directly behind the traffic signal. Instead almost most of them seem to have been located well above the road or high on adjacent buildings, but all within the “cone of vision” of drivers approaching the intersections.
48. In response to these points Mr Downard Wilke was somewhat sceptical of Mr Carr’s general research paper. He said that it is possible that some drivers may be reluctant to disclose being distracted by signage. At similar hearings other experts have told me that the responding police officers can be too busy to take complete statements at the time and that by the time of any follow-up interviews the exact cause of the crash may not be recalled. It should be remembered that drivers are very likely be in a state of shock after such a crash and may not have a clear recall at the time or afterwards.
49. I tend to agree with Mr Downard Wilke on this. It seems to me that the research paper is now a little dated. It is based on only 15 case studies and there must have been a large number of such signs erected since then. In addition, of the 15 sites only two appear to be cases where the billboard appears directly behind a traffic signal. Some cases were at roundabouts or other locations away from intersections. Therefore I consider the paper has limited relevance to the present case’ where the overlapping with a single signal head is the only issue. However the paper continues to be raised in evidence at many hearings involving digital billboards close to traffic signals.
50. Mr Carr’s evidence was peer reviewed by Mr Brett Harries, another highly experienced traffic engineer. His main point was that there a number of other signals at this intersection that are clear of the billboard, and in particular an overhead primary signal above the road which would be prominently visible to all drivers. Overall, Mr Harries agreed with Mr Carr’s conclusions.
51. With regard to this specific intersection Mr Downard-Wilke said that the ASD could also be described as “the critical decision zone”. He said that it would be quite possible that through drivers might move into in the left lane in order to get around stationary vehicles waiting to turn right and might be distracted by the digital sign in the background. This would not be a legal manoeuvre but foreseeable in spite of that. He also said that signal Pole 5 is likely to be used by traffic waiting to turn right into Gloucester St. My understanding is that this is not about the critical decision zone, because the driver would already be stopped. Rather, because of distraction the driver might misread the traffic signal and proceed at the wrong time.
52. There was also disagreement between the two experts about the correct approach speed and reaction time to be used in making these assessments, and Mr Downard -Wilke raised an additional issue of colour impaired drivers. He said red/green colour blindness is relatively common in males, affecting up to one in twelve men, and while they are generally able to distinguish which light is actually lit, it is an added risk factor that should be avoided if possible.
53. I found these conflicting opinions very difficult to resolve. I find myself reluctant to contemplate situations where large digital billboards appear in the background to traffic signals, purely out of caution. I accept that crashes would be rare, but consequences could be severe, especially for pedestrians and cyclists. There are many other locations where such billboards can be erected, but the preference of operators seems to be to have them close to traffic lights where there is a captive audience of people waiting at the lights, as was once confirmed to me at a hearing by one of the main operators. That indicates to me that the intention is to capture the attention of drivers and direct their attention away from the things they should be concentrating on, including the traffic signals and the movements of other traffic nearby.

54. There was a great deal of discussion about the traffic safety issue, including other points not discussed here. In the end, because of the conclusion I have reached on amenity effects I do not need to resolve this traffic safety issue, and I prefer not to.

Heritage Buildings

55. With respect to heritage effects, there are a number of heritage listed buildings in the vicinity of the site. These would be able to be viewed together with the billboard in view to the south along Manchester St. The submission from Heritage Christchurch considered the proposal will be out of keeping with the surrounding area which includes a number of heritage buildings.
56. Specialist advice for the Council was provided by its Heritage Advisor, Ms. Suzanne Richmond. Ms. Richmond noted that there are an important group of scheduled heritage items on the south-west corner of Manchester and Worcester Streets. These include the former Trinity Congregational Church which anchors the corner, Shand's Emporium facing Manchester Street, former State Insurance building facing Worcester Street, and the former Government Buildings containing the Heritage Christchurch hotel to the west at 28 Cathedral Square, which has its north elevation to Worcester Street. She notes that views of this group will be affected to some extent, and this will be highlighted by the digital nature of the billboard. However, whilst it will feature in some views, it will not feature in all views to the buildings on the south-western corner of Manchester/Worcester Street intersection. Furthermore, it is noted that some of the current views are temporary and have only opened up since earthquake demolitions in the block containing the application site have occurred. To this extent, these views will no longer be possible once the block is redeveloped.
57. With respect to the comments raised by the submitter in relation to the impact on the historic character of the precinct, Ms. Richmond noted there is some separation of the proposed billboard from the hotel, and the significant north elevation of the hotel is only partially visible until reaching the Manchester/Worcester Street intersection from the north. Therefore the north of the billboard will be present in mid-range views in front of the sign to the east of the hotel's north elevation, however the billboard will be seen to the side rather than obscuring the elevation. Ms. Richmond notes that it will still be possible to stand south of the sign on the Manchester/Worcester Street corner to view the whole north elevation of the hotel. Additionally, it is anticipated the block containing the application site will be redeveloped in the long term, so visual effects are expected to be temporary.
58. Overall, Ms. Richmond considered the billboard would have no more than minor effects on heritage values for a temporary period. She recommended a condition of consent requiring the billboard to be removed after a period of five years.
59. I rely upon and accept Ms. Richmond's advice on the potential effects on heritage values. Overall I do not consider the effects to be unacceptable on heritage values of the surrounding environment.

Overall Conclusion on adverse effects on the environment

60. My overall conclusion on adverse effects on the environment is that any such effects would be more than minor and unacceptable, due to the adverse visual appearance to people in the street and on present and future residents.

Statutory considerations

Resource Management Act 1991

61. When considering an application for resource consent, and any submissions received, the decision maker 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.

62. I have found that any adverse effects of this application would be more than minor. Section 104B simply provides that in regard to discretionary activities I 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 the Canterbury Regional Policy Statement and any other matters I consider relevant.

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

63. In her report Ms Brown made a detailed assessment of the relevant objectives and policies of the District Plan, focussing on Chapter 6 Signage and Chapter 15, Commercial. She did not consider Chapter 3, Strategic directions, considering that these are very general and their discrete application on a case-by-case basis is not intended, following the view expressed by the Environment Court in cases such as *Fright v CCC*, *Pickering v CCC* and *Yaldhurst Quarries Joint Action Group v CCC*.⁴ Nor did she address Chapter 7, Transport, possibly because she was unable to reach a conclusion about traffic effects on the evidence before her at the time she wrote her report, or Chapter 9, Heritage, although in that case she considered the effects less than minor so did not need to rely on these objectives and policies.
64. She also helpfully provided an overall summary of and conclusion on those provisions, including those where the proposal was consistent with them and those where it was not in her opinion. It is worth quoting her summary in full.

140. 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. 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

141. The proposal is consistent with the objectives that provide for the outcomes regarding economic well-being directly by way of additional revenue for the landowner/developer, and indirectly through advertising.

142. However, 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. The area, height, freestanding design and digital display with changing 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.

143. In this case, I conclude that the impact of the proposal on amenity and quality of the urban environment are unacceptable and cannot be managed or mitigated. Further, the application does not sufficiently demonstrate that the billboard will ensure a safe traffic environment remains.

144. After considering the relevant objectives and policies it is my opinion that in an overall sense, the proposal is not supported or enabled by the relevant objectives and policies of the District Plan.

⁴ *Fright v CCC* [2018] NZEnvC 111 at [63].

65. Ms Collie for the applicant made a similar analysis detailed but did include Chapters 7 and 9 as she was relying on them. She did not make an overall summary, but under each chapter concluded that the proposal would be consistent with the objectives and policies.
66. I have considered both planners' analyses. They are both careful and thorough and essentially differ only because of the different conclusions they have reached regarding effects on amenities, and that is perfectly understandable.
67. The position one takes on objectives and policies is highly dependent on the findings on effects on the environment. Thus it is possible for the witnesses to reach contrasting conclusions on the objectives and policies because of their differing view on the effects.
68. I have concluded that I agree with the conclusions reached by Ms Brown, and also Mr Nicholson on the effects on amenities. I also accept and adopt Ms Brown's analysis of the objectives and policies. Like her I have not reached a conclusion on the issue of traffic safety. I do not consider it necessary to carry out an analysis of the provisions in the Heritage chapter as these are not decisive in this case. However I accept Ms Collie's conclusions on that, although it will not change the outcome.
69. Having adopted Ms Brown's analysis, it is not necessary for me to repeat it with my own version⁵

Other relevant matters

Canterbury Regional Policy Statement

70. 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.

Christchurch Central Recovery Plan (the CCRP)

71. I was also referred to the CCRP by various witnesses. This was a plan made by Central Government under the earthquake recovery legislation passed shortly after the Canterbury earthquakes. I understand that originally under the legislation it was not allowable to make a decision on a resource management matter that would be inconsistent with the CCRP, but that requirement has been repealed. However the plan itself has not been revoked and is of some relevance to this application. Mr Nicolson provided a brief summary of the plan. He wrote

9.1 *While the Christchurch Central Recovery Plan (CCRP) is no longer a statutory document, it provided the vision for rebuilding central Christchurch after the Canterbury earthquakes, and gives a rationale for understanding the landscape values that were incorporated into the rebuild.*

9.2 *The Frame was identified in the CCRP as a means of "reducing the extent of the central city commercial area" and the East Frame was designated for "medium-density demonstration housing and long-term residential development" with the objective of providing "a greater choice of housing" and adding "visual and open space amenity"⁶.*

9.3 *Manchester Street is identified in the Accessible City Chapter (ACC) of the CCRP as the key north-south transport route in the central city. The ACC directs that Manchester Street will be converted into a 'boulevard' to provide bus priority and to create a high-quality connection between the East Frame and the Core. A high-quality 'super stop' is identified on Manchester Street between Worcester and Gloucester Streets.*

72. I find this relevant and helpful in understanding the intention of the Central Government and the Council in establishing a special character for Manchester St, . As well as that special character,

⁵ See Section 113(c) of the Resource Management Act 1991

⁶ Christchurch Central Recovery Plan, Canterbury Earthquake Recovery Authority, 2012, pp. 35-36

it is clear that Manchester St and the East Frame on its eastern side is part of an attempt to restrict the extent of the central commercial area in that part of the City, which was widely considered prior to the earthquakes as being too large, leading to an element of decay without renewal in older parts of the Central City. The East frame, with its emphasis on residential activity is also intended to increase the number of residents in the Central City and to improve the public transport experience. I believe this helps to establish why this part of Manchester St should not be regarded as just another part of the Central City, as I think some of the applicant's witnesses and legal counsel have done.

Part 2 of the Resource Management Act

73. Taking guidance from the most recent case law⁷, the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District. It was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of sections 5-8 of the Act. Accordingly no further assessment against Part 2 is considered necessary.

Decision

My decision is that the application is declined. My reasons for this are stated throughout this decision.



David Mountfort

Hearings Commissioner

13 April 2022:

⁷ *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316