



PLANNING REPORT

PREPARED BY: Peter York

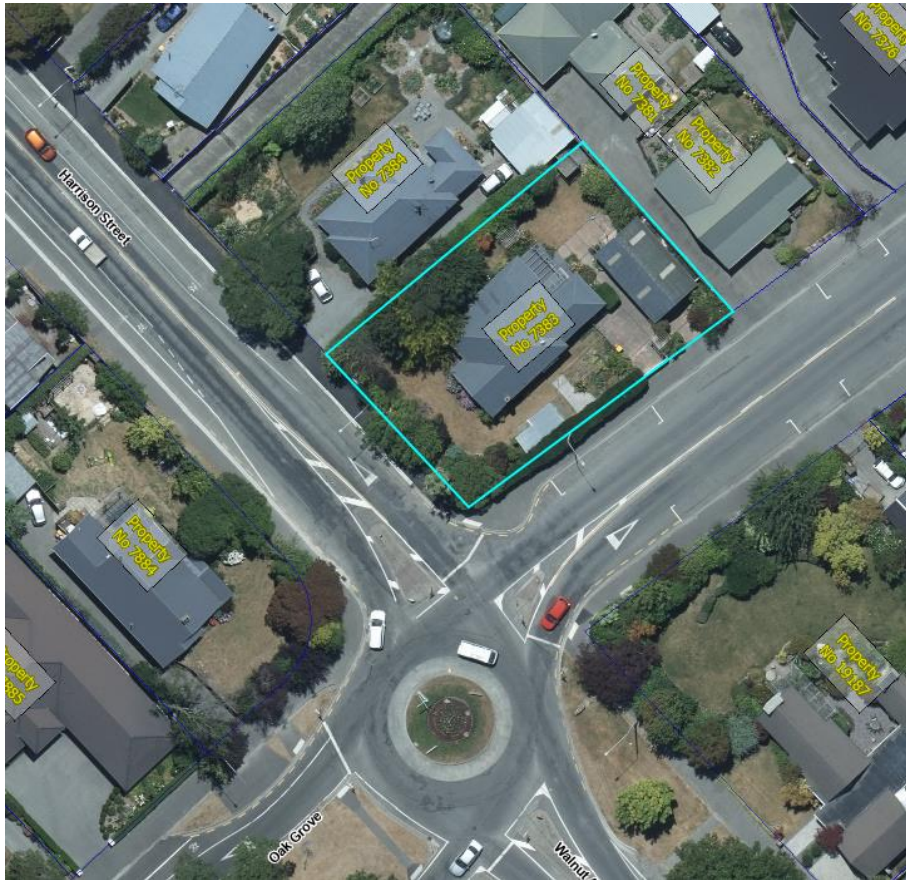
DATE: 31 October 2022

SUBJECT: RESOURCE CONSENT APPLICATION LCA22/0007

Applicant's Name:	JOSEPH FALANIKO ARCHIE PETELO
Street Address:	2 Harrison Street ASHBURTON
Legal Description of Site:	Lot 3 DP 4420
Zone:	Residential C
Consent number:	LCA22/0007
Application summary:	S127 Variation to LUC20/0006. Land use consent at 2 Harrison Street to address the proposed non-compliant community activity (4.8.4) and signage (13.7.2) associated with the establishment of a Dental Orthodontist facility, zoned Residential C
Status:	Discretionary Activity
Date of Site Visit:	10.10.22
Section 92 request:	Date Requested: 10.10.22 Date Received: 1.11.22

1.0 THE PROPOSAL, SITE AND LOCALITY

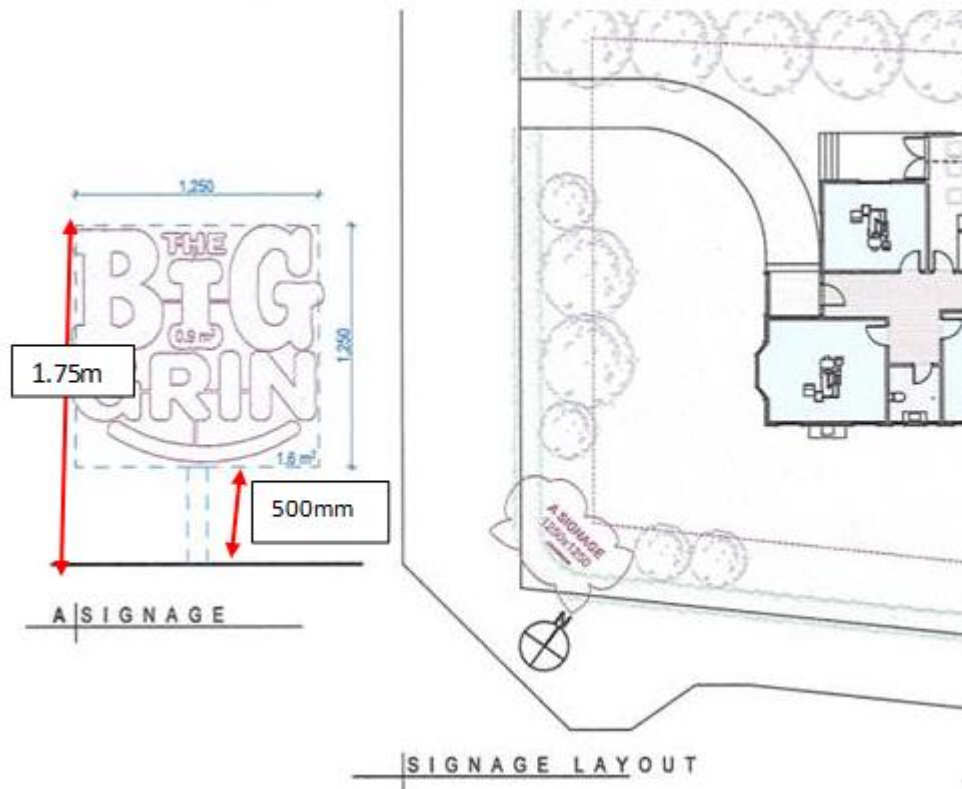
1.1 Locality Plan



1.2 Background

LUC20/0006 granted approval for a dentistry a community facility and associated signage. A sign approximately 1.6m² has been approved will be located on the southern corner of the site being visually viewed from Oak Grove and Walnut Avenue. The sign is orientated to minimise effects on residential properties nearby.

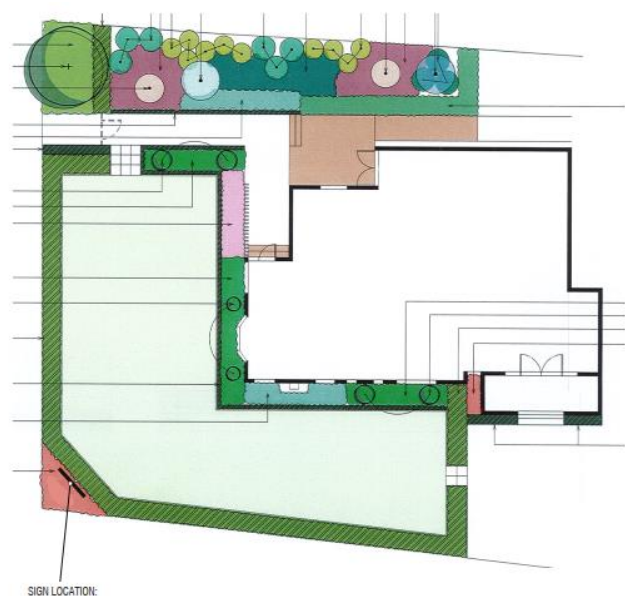
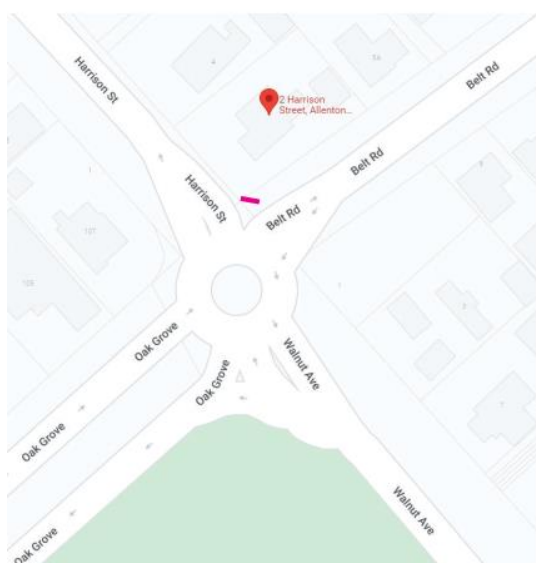
The sign is approximately 1.250m by 1.250m being 0.5m off the ground with a height of 1.75m. The sign is not illuminated.



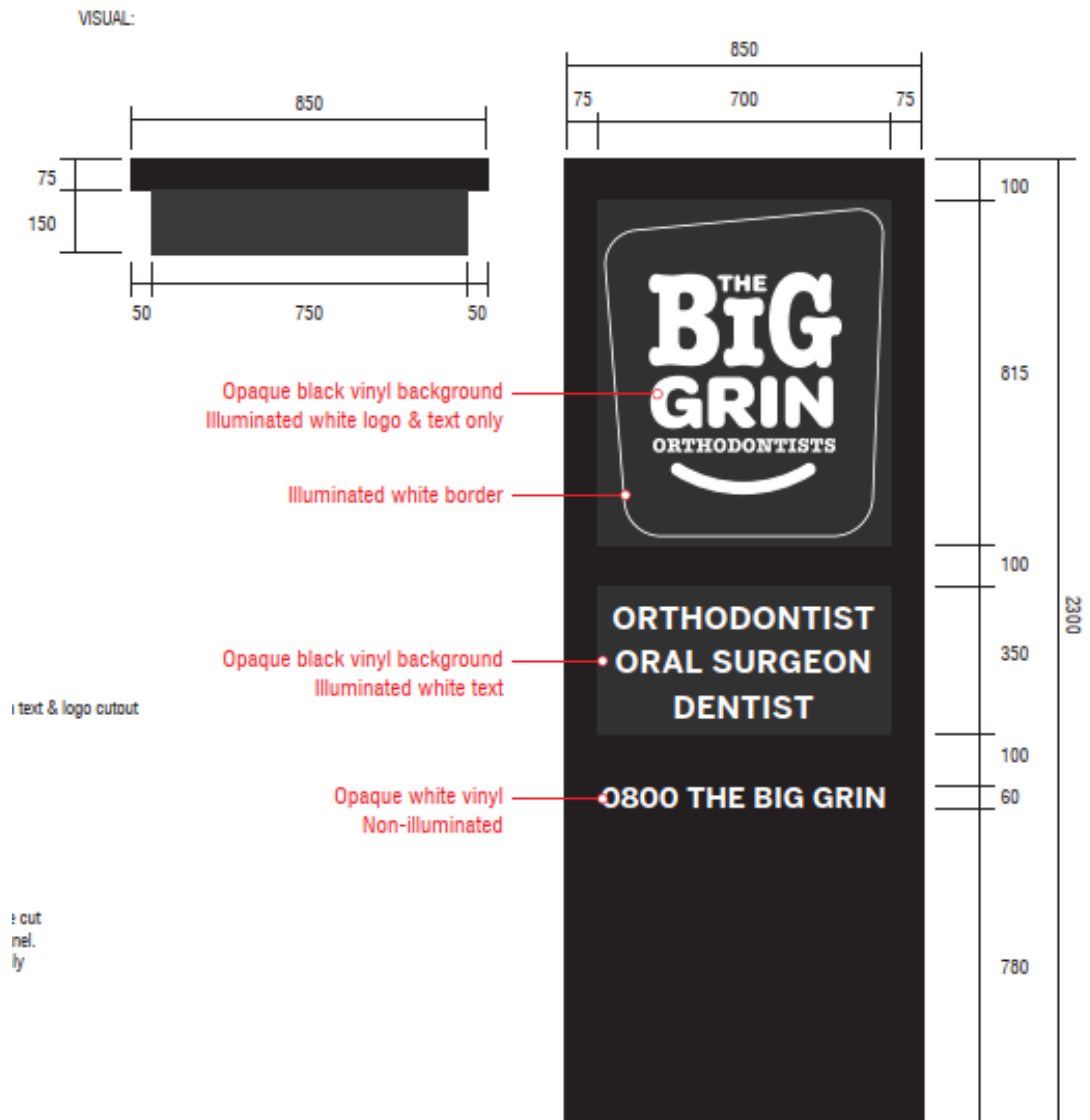
It is proposed to change condition 1 of the consent to accommodate new plans for the sign inclusive of changes. The new sign will have parts illuminated while advertising content would be up to 0.86m^2 on a structure 1.95m^2 . Initially the sign area proposed was 2.65m^2 with discussion on size with the applicant, the sign area has been reduced to 1.95m^2 .

1.3 Description of the proposal

The proposed sign will be located at the same location as the approved sign indicated above..



The sign will be within the dimensions 0.850m by 2.3m as indicated below. The plan identifies parts of the sign to be illuminated. The advertising statements would be contained within an area similar to the approved sign. The bottom part of the sign 0.750m by 0.85m will contain no advertisement statements.



It is proposed that part of the sign will be illuminated the white border logo and text on black vinyl background.

The application proposed illumination to occur from 4.30pm to 11.00pm during the winter and 7.00pm to 11.00 pm in summer.

The applicant is prepared to restrict the operational hours for the illumination use of the sign.



1.3 Site Visit

The site was visited by officer on 10.10.22.

1.4 Description of site

The site is zoned Residential C has an area 1022m² and the wider area comprises of residential development with the Ashburton Domain and Ashburton College located to the southeast of the site across Belt Road and Oak Grove

The adjoining roads are both Principal roads associated with a high volume of traffic during the day. The surrounding environment contains the Ashburton Domain, Ashburton College and Ashburton Hospital which contain extensive signage similar in size to what is proposed.

The following photos show signage located in Walnut Avenue and Harrison Street.



Signs located at 25 Walnut Avenue.



Sign at Ashburton Squash Club 30 Harrison Street.



Sign at G and E Dental 131 Walnut Avenue.

The signs identified some are externally or internally illuminated.

The Principal Roads contain street lighting and the roads are wide.

Residential properties opposite the site in Harrison Street and Belt road of the proposed sign are fenced combined with vegetation which screens the residential units from the sign being visually direct.

The sign is directional being viewed from the domain and adjoins roads that connect with a controlled round about that links principal roads.

2.0 REASONS FOR THE APPLICATION

Section 127 of the Resource Management Act 1991 which deals with the application for a change of consent conditions states that:

127 Change or cancellation of consent condition on application by consent holder

- 1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:
 - (a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and
 - (b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.
- 2) [Repealed]
- 3) Sections 88 to 121 apply, with all necessary modifications, as if—
 - (a) the application were an application for a resource consent for a discretionary activity; and
 - (b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.
- 4) For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider every person who—
 - (a) made a submission on the original application; and
 - (b) may be affected by the change or cancellation.

It is proposed to change condition 1 as outlined in section 1.3 above, being a Discretionary Activity. It is proposed to change condition 1 in relation to the proposed changes to the approved sign.

2.1 Ashburton Operative District Plan 2014

4.8.4 Discretionary Activity The following activities shall be discretionary activities provided that they comply with all of the relevant Zone Standards

- (a) *Community activities.*
- (g) *Any other Activity which is not listed as a Permitted, Restricted Discretionary or Non-complying activity.*

13.9.8.1 Number of Signs

- (a) *Signs shall be limited to a single sign for each road frontage of any site. Two signs were proposed.*

13.9.8.2 Size of signs

(a) The maximum area of any sign shall be 0.5m² within the Residential Zone. The sign approved at the south east corner had an area of 1.5m². It is proposed to increase the area of this sign to 1.95m².

13.9.8.4 Illumination of signs

(a) No sign shall be illuminated by any method whatsoever, such that its illumination casts light or reflected on to any other property or road.

(a) Zoning and Non-Compliance

The proposed activity is located in an area zoned Residential C under the Operative Plan. The land surrounding the site is zoned Residential C.

LUC20/0006 assessed signage for the community facility commenting that what was proposed would not have an adverse effect on the surrounding environment

(b) Relevant Provisions relating to this proposal

Consideration needs to be given to the further non-compliances associated with the changes to the sign and to whether there are affected parties.

Non-compliances to be considered relate to the shape of the sign with an increased area 0.39m² and sign components to be illuminated.

The visual text statements area on the sign would be similar in area to what has been approved.

Visual text statements will be limited to what is on the sign.

Signs have to be under 3m or the eave of a residential unit whichever is the lesser. The sign changes will comply with this requirement.

(c) Conditions the Plan requires to be imposed

The conditions of LUC20/0006 will be applicable with condition 1 being changed to accommodate the new signage design plan.

The applicant has proposed a time restriction condition for when the sign will be illuminated.

The lower part of the sign will have no written statements. A condition is proposed restricting advertisement statements on this area of the sign.

A review condition is considered ensuring there are no adverse effects of the illuminated sign on the road and surrounding properties.

2.2 National Environmental Standard (NES)

No issues.

2.3 Status of the application

Overall the application is considered to be a Discretionary Activity.

3.0 STATUTORY CONSIDERATIONS

When considering an application for a discretionary activity the consent authority must have regard to Part 2 of the RMA ("Purposes and Principles" – sections 5 to 8), and sections 104, 104B, 104D, 108 and where relevant sections 105, 106, 107, 107A – E of the RMA.

Under s104B a consent authority may grant or refuse consent for a discretionary activity and, if it grants the application, may impose conditions under s108 of the RMA.

All considerations are subject to Part 2 of the RMA, which sets out the purpose and principles that guide this legislation. This means the matters in Part 2 prevail over other provisions of the RMA or provisions in planning instruments in the event of a conflict.

Subject to Part 2 of the Act, when considering an application for resource consent the Council must, in accordance with section 104(1) of the Act, have regard to:

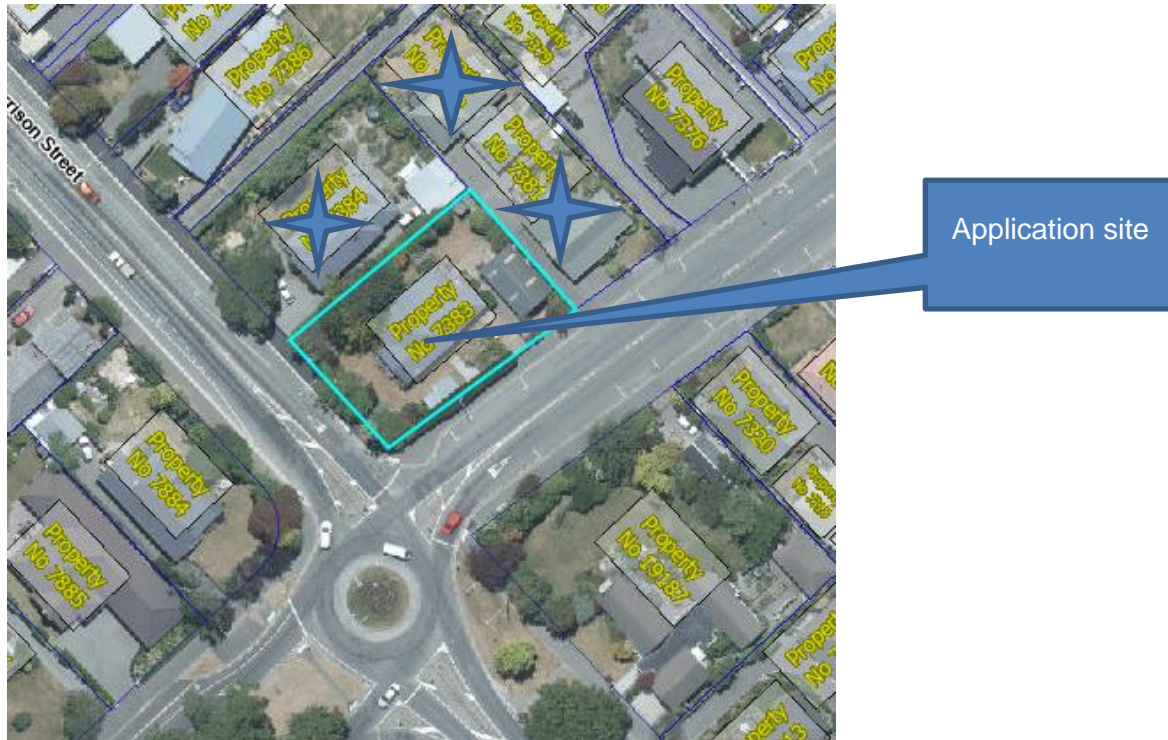
- Any actual and potential effects on the environment of allowing the activity;
- Any relevant provisions of national environmental standard, other regulations, national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement and a plan or proposed and, and
- Any other matter a council considers relevant and reasonably necessary to determine the application.

4.0 AFFECTED PERSONS APPROVALS

The attached Section 95A-95F assessment report concludes that:

LUC20/0006 was processed as a non-notified application. Written approvals were obtained with the plan showing the sign in section 1.1 of this report. Where these properties are located it would appear that these properties would not be affected by the proposed change to the sign as the proposed variation relates to changes of a sign which would appear to not be visible from these sites.

The aerial photograph identifies the affected parties that provided written approval:



Where the approved sign is located no written approvals were sought from properties located across the roads Harrison Street and Belt Road from the site. The sign is located on an angle and appears to be directional towards traffic moving on Oak and Walnut Avenue towards Belt Road and Harrison Street.

The illuminated sign will be designed to ensure that surrounding properties and the road will not be affected by illuminance. The plan of the sign shows what will be illuminated the background a vinyl black material will not be illuminated. The applicant has proposed a condition proposing the hours the illuminated sign will operate as follows:

The sign will be illuminated from 4.30pm to 11.00pm during the winter (April to September) and 7.00pm to 11.00 pm in summer October to March.

A condition is proposed restricting the hours of sign illumination and illumination *shall not casts light or reflected on to any other property or road.*

Advertisement statements are restricted to what is proposed on the sign. There will be no additional advertisement statements on the sign.

In regard to illuminance there are streetlights also the lights associated with the domain and use of sports fields.

When considering that the signage proposed identifies the land use activity and with the sign being slightly larger than what was approved and illuminated when taking into account residential amenity values it is considered that illumination should occur during the operational hours of the community facility as it is not anticipated to have illuminated signage within the Residential Zone as it would be in say a Business zoned area.

The assets team raised no issues about the proposed change to the sign design. The letter sizes comply with the Plan. The sign is a combination of black vinyl with advertisement in white. Not all statements will be illuminated.

When looking at the sign structure along front boundaries fences can be constructed up to 2m in height. The sign structure will be narrower 850mm compared to 1.25m approved under LUC22/0006.

The statements and letter sizing will comply with the District Plan.

A review condition is proposed to address particularly illumination in terms of any potential adverse effects in the surrounding environment.

Conditions proposed will mitigate any potential adverse effects on the surrounding environment.

5.0 ASSESSMENT OF THE APPLICATION

5.1 Section 104(1)(a) Actual and potential effects on the environment

Section 104(1)(a) of the RMA requires that a council have regard to any actual and potential effects on the environment of allowing the activity.

S127 (3) restricts matters of assessment to the changes associated with the alteration. All other matters are considered to have been settled during the previous application process.

Pursuant to s127 (4) consideration must be given to every person who made a submission on the original application and any party who might be affected by the change. The application to which this variation relates was processed non-notified as written approvals were obtained.

The assessment of adverse effects in section 4.0 of this report for the purpose of notification concludes that adverse effects with the proposed changes to the sign are no more than minor. This assessment is relevant for assessment required under s104(1)(a).

The following positive environmental effects identified:

- The proposed sign will identify the community facility and consent conditions are proposed to mitigate any potential adverse effects on the surrounding environment.

In summary, it is my opinion that any adverse effects would be less than minor as a result of the restricted retail activity and associated variation of conditions.

5.2 Section 104(1)(b)(i) and (ii) Relevant provisions of National Environmental Standards and other regulations

There are no NES or other regulations in effect that apply to this application.

5.3 Section 104(1)(b)(iii) Relevant provisions of National Policy Statements

There are no National Policy Statements relevant to this application.

5.4 Section 104(1)(b)(iv): Relevant provisions of the New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement is not applicable to this application. **5.5 Section 104(1)(b)(v) Relevant provisions of the Canterbury Regional Policy Statement**

The subject application is not considered to be of a nature or scale that it challenges any of the policies therein.

5.6 Section 104(1)(b)(vi) Provisions of the relevant regional/district plan objectives, policies and rules

5.6.1 Relevant objectives and policies

The following objectives and policies of the Ashburton District Plan are considered relevant:

Objective 13.1: Effects of Signs

To provide for signs which convey necessary information, while avoiding or mitigating any adverse effects on public safety, convenience or visual amenity in the District.

Policy 13.1A

Avoid, remedy or mitigate adverse effects of on the character, attractive appearance and visual amenity of the different areas of the District in accordance with the community's expectations, by limiting the number, size, location and nature of signs in the different areas of the District.

Policy 13.1B

Ensure that the display of signs does not adversely affect traffic safety by causing physical obstruction of views, for motorists or pedestrians or other road users.

When taking into consideration the sign approved under LUC20/0007 the variances sought relate to:

- The sign area being increased (1.56m^2) by 0.39m^2 to 1.95m^2 .
- Parts of the sign being illuminated.
- The sign being narrower 0.850m and 2.3m in height (Approved 1.25m by 1.25m (1.56m^2) and 1.75m high).
- Signage statements have an area of 0.86m^2 being similar to what was approved.
- The sign location has a backdrop of vegetation softening the structural component of the sign.

The residential zone permits a sign area of 0.5m^2 the sign approved has an area of 1.56m^2 . Initially the change was seeking an area of 2.65m^2 but this has been reduced to 1.95m^2 an increase of 0.39m^2 . The sign will be narrower 850mm and 2.3m high meets the rules for height.

The sign location benefits from being accommodated off a round about and wide roads with a boulevard setting not directly fronting residential properties opposite the site.

The Council's Assets team had no issues with the proposed sign and no issues were raised with the approved sign LUC20/0006.

Although the sign area will be slightly larger consent conditions can ensure that any potential adverse effect in the surrounding environment can be mitigated.

5.6.2 Relevant Assessment Criteria

With the proposed changes to the sign consideration needs to be given to the approved sign design within the context of the surrounding environment.

With the corner site being at the intersection of principle roads and different land use activities close by, the domain, hospital, and educational facilities it is considered that the proposed changes to the sign would not have adverse effects on the surrounding environment.

The changes reconfigure the approved sign although slightly larger, the advertisement statements are similar in area when comparing the signs.

The narrower width of the proposed sign with the vegetation back drop will not have an adverse effect on the character of the locality.

The height range of a sign is 3m or below an eave whichever is the lesser. The sign will have a height of 2.3m meeting this requirement.

Taking into consideration the existing environment and the changes proposed it is considered that the proposed sign can be facilitated at this location without having an adverse effect on residential character or amenity.

With the proposed illumination of the sign it is considered that this be in association with the operational hours of the facility as illuminated signage advertising a community facility is not anticipated in the Residential Zone. Consideration was given to the proposed hours for sign illumination but there is concern that it might be difficult to resist other landuse activities which seek for their signage to be illuminated in potentially sensitive areas. Therefore on assessment it is considered appropriate to restrict the use of illumination of the sign to the hours of operation of the community facility. This is proposed as a condition of consent.

5.7 Section 104(1)(c) Any other matters considered relevant and reasonably necessary to determine the application

In this case in terms of assessing the proposed change assessment needs to take into account the planning reports associated with LUC20/0006 in regard to the approved signage.

The notification report for LUC20/0006 commented:

“the sign is slightly larger than what is permitted within the Residential Zone, it would be a plane sign without flashing lights and would be compatible with the environment by keeping with the scale of its location.

The sign approved has an area 1.56m² with a height of 1.75m.

The variances sought are associated with what has been approved.

5.7.1 Monitoring

The application can be monitored through the building consent process.

5.7.2 Other Matters

The application is associated with LUC20/0006. Additional consent conditions are proposed in regard to the illumination component of the sign and review condition specific to illumination.

The applicant has volunteered a condition restricting the operational hours of the illuminated components of the sign.

Consideration was given to the proposed operational hours of the illuminated parts of the sign:

- April to September 4.30pm to 11.00pm;
- October to March 7.00pm to 11.00pm;

It was considered due to the zone being residential and advertisement signage not permitted the illuminated components of the sign shall be operational when the community facility is operational. LUC20/0006 consented the following hours:

- 0800 to 2100hrs Monday to Friday;
- 0900 to 1700 hrs Saturday and Sunday;

In terms of the proposed signage illumination this can be operational during the operational hours of the facility.

6.0 Summary of Section 104 RMA Matters

Given the above assessment it is considered that the adverse effects of the proposal will be less than minor. The proposal is not contrary to the relevant objectives and policies of the Ashburton District Council Plan.

Conclusions reached in determining the application are:

- Section 104(1)(a) Actual/Potential effects on the environment will be no more than minor.
- Section 104(1)(b) Relevant provisions of the plan are met.
- Section 104(1)(c) No other matters are considered necessary to determine the application.
- Section 104(2) The Plan provides for the activity.
- Section 104(3)(d) Section 95 A-F assessment concluded that non-notification is justifiable for determining consent.

7.0 Purpose and Principles (Part II) of the Resource Management Act

Section 5 in Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out a number of matters of national importance which need to be recognised and provided for and includes among other things and in no order of priority, the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of historic heritage.

Section 7 identifies a few “other matters” to be given particular regard by a council in the consideration of any assessment for resource consent and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values. Section 8 requires a council to take into account the principles of the Treaty of Waitangi.

Overall the application is considered to meet the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose of the RMA being sustainable management of natural and physical resources.

Although the sign is slightly larger the design and layout it is considered that the setting of conditions that any potential adverse effects can be mitigated.

8.0 RECOMMENDATION

It is recommended that consent for the above application LCA22/0007: be granted under delegated authority and pursuant to Section 104, 104B, 108 and 127 of the Resource Management Act 1991 subject to the following conditions being completed to the satisfaction of the Council and at no cost to Council, with the following advice notes, and for the following reasons:

CONDITIONS

In response to an application received by Council on the 19 September 2022 to change consent condition for the resource consent dated 16 March 2020, numbered LUC22/0006 I wish to advise you that the conditions of consent has been granted on 4.11 22 under delegated authority pursuant to Section 104, 104B, 108 and 127 of the Resource Management Act 1991 to the extent as detailed below. The changes shall be read in conjunction with LUC20/0007.

Deletions are shown in ~~striketrough~~, and additions shown in **bold italics**.

General

1. That the activity shall be undertaken in full accordance with the plans and information submitted with the application being:
 - Application and Assessment of Environmental Effects prepared by David Harford Consulting Ltd, dated February 2020;
 - The response to further information requested dated 5th March 2020,
 - Plans and drawing submitted with the application and stamped with this consent referenced by Council as LUC20/0006 Sheets 1-1;
 - ***Application for change of Resource Consent Conditions prepared by Novogroup for Signtech the Signmasters Limited dated September 2022, and plans referenced LCA22/0007 Sheets 1-4 and 4-4.***
2. ***The illuminated parts of the sign shall not cast light or reflected onto adjoining properties and roads.***
3. ***The illuminated parts of the sign are restricted to the following operational hours:***
 - ***0800 to 2100hrs Monday to Friday;***

- **0900 to 1700hrs Saturday and Sunday**

- 4. Pursuant to section 128 of the RMA the conditions of this consent may be reviewed by the Council at the consent holders cost at any time to deal with any adverse effect on the environment from the exercise of the consent and which is appropriate to deal with at a later stage, in particular illuminance effects in the surrounding environment.**

REASONS FOR THE DECISION

Pursuant to sections 104, 104B, 108 and 127 the Resource Management Act 1991, this non-notified discretionary activity application is granted for the following reasons:

- (a) The application merits granting of a resource consent pursuant to Section 104, 104B, 108 and 127 of the Resource Management Act 1991.
- (b) With the setting of consent conditions, the proposal is consistent with the objectives and policies of the Operative Plan Ashburton District Plan.
- (c) The application qualifies for consideration on a non-notified basis, as the adverse effects are deemed to be less than minor and no persons are deemed affected by the proposal.
- (d) The adverse environmental effects of the development on the wider environment are less than minor.

ADVICE NOTES

- 1) In respect of condition 2, inappropriate light shall include circumstances where the sign is damaged or operating in such a way that naked light is directed towards the road and or traffic. In such an instance, the sign should be switched off and not used until repairs are undertaken.
- 2) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under Section 125 of the Act.
- 3) This application is associated with LUC20/0006.
- 4) Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.
- 5) This consent does not constitute authority to build or undertake private drainage works and it may be necessary for you to apply for a Project Information Memorandum and Building Consent if you have not already done so.
- 6) A copy of this consent and the associated approved drawings should accompany your application for a Project Information Memorandum and Building Consent. If not supplied unnecessary delay may occur in the processing of your application.
- 7) If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application you have the right of objection under sections

357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to Council within 15 working days of notification of the decision.

- 8) The consent holder is requested to notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to info@adc.govt.nz and include the following details:
- i. Name and telephone number of the project manager and the site owner;
 - ii. Site address to which the consent relates;
 - iii. Activity to which the consent relates; and
 - iv. Expected duration of works
- 9) The consent holder is requested to notify Council, in writing, once they have completed the works authorised by this resource consent. Such notification should be sent to info@adc.govt.nz including the following details:
- i. Resource consent number
 - ii. Site address to which the consent relates
 - iii. Statement outlining how the applicant has complied with each of the conditions

Recommended for Approval

Signed: _____ **Date:** _____
Peter York
Consents Planner

DECISION:

Recommendation for LCA22/0007 adopted under Delegated Authority

Signed _____ **Date** _____
Ian Hyde
District Planning Manager

Signed _____ **Date** _____
Jane Donaldson
Strategy and Compliance Group Manager