

Application for Land Use Consent
Tricroft Properties Limited
363 West Street,
Ashburton

March 2021

Ashburton District Council

Reference: 20-04

Revision: Final



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QUALITY ASSURANCE

Project Reference: 20-04

Title: Application for Land Use Consent – Tricroft Properties Ltd

Client: Tricroft Properties Ltd

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1.0 INTRODUCTION

Section 88(2)(b) of the Resource Management Act 1991 requires that any application for a resource consent should include an assessment of any actual or potential effects that the activity may have on the environment and the ways in which any adverse effects may be mitigated.

Section 88(2)(b) also requires that any assessment shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment and shall be prepared in accordance with the Fourth Schedule to the Resource Management Act 1991.

Form 9 as required by Section 88 of the Resource Management Act 1991 is provided as Annexure A to this application. The body of this application addresses the character of the land, the proposed land use activity and the relevant provisions of the Operative Ashburton District Plan. It also includes an assessment of effects on the environment as required by the Fourth Schedule to the Resource Management Act 1991.

1.1 Site Information

Site Address:	363 West St, Ashburton
Legal Description:	Lots 1 and 2 DP 1563 and Lot 1 DP 23503
Certificates of Title	CB29A/1270 and CB4B/485. Refer Annexure B
Site Area:	1.5606ha
Property Owners	Tricroft Properties Ltd
Proposed District Plan Zone:	Business C - Planning Map U47 & U48
Notable Features	N/A

1.2 Activity Classification

Operative Ashburton District Plan

5.8.6 Non-Complying Activities

(i) **Retail Activity** in the Business C Zone, where:

- the maximum gross floor area of any individual retail tenancy exceeds 750m²*

Additional non compliances in relation to the following:

- Site Standard 5.9.8(b) Landscaping and Trees - Tree planting on road frontages
- Site Standard 5.9.9 Amenity – Area of Landscaping
- Transport Standard 10.8.1 – Minimum parking space requirements
- Transport Standard 10.8.8 – Loading Space Provisions
- Transport Standard 10.8.12 – Queuing Length

* Plan Change 4 to the Ashburton District Plan has amended rules relating to the Business C zone. This is assessed further in the application.

2.0 SITE AND SURROUNDS

2.1 The Application Site and Surrounds

The application site is on the northern side of West Street (State Highway 1) and located within Ashburton's Business C zone. While located in an area that is dominated by mixed business activities, it is noted that the site is bordered to the west by the Residential C Zone and to the north by a parcel of Open Space A land. The location of the site is shown in Figure 1 below:

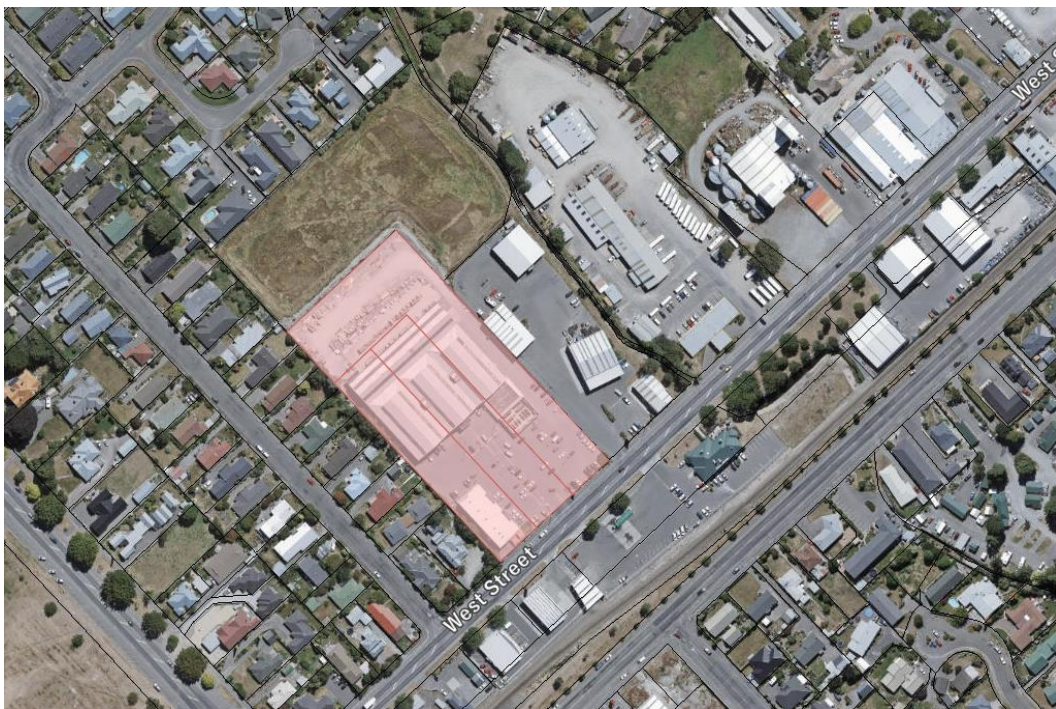


Figure 1: Site Location

This site consists of the former Bunnings Warehouse store which offered hardware, garden and building supplies. A vet clinic and café exist within a separate building located to the south (front) of the site. The total site at present offers 139 car parking spaces, 6 of which are accessible parks.

On the opposite side of West Street (State Highway 1), between the railway line and the State Highway, there are further properties zoned Business C. These businesses include BP Ashburton and a BP Truckstop. Further to the north is 'The Phat Duck' restaurant and bar.

West Street (State Highway 1) is a two-lane sealed road which is straight in alignment on this boundary. Under the control of the NZTA, this thoroughfare has a speed limit of 50km/hr through this section.

A copy of the proposed location plan is included as Annexure D to this application.

3.0 PROPOSAL

The proposal is to divide the existing structure as per the proposed site plan. While it is intended that the structure will accommodate three separate tenancies in the future, the subject of this application is the proposed middle unit (proposed Lot 2).

The reason for this is this tenancy is ready to establish ahead of the proposed tenancies for Unit 1 and 3.

The applicant wishes to establish a retail tenancy which offers a retailing floorspace of 1002m². An ancillary area, measuring approximately 360m², is sought to the rear. This space will provide for storage and administration purposes, along with toilet facilities and amenities for staff. Further north is a secure yard area measuring 437m². This yard area is available for the tenant to loading and logistics purposes.

Although the future occupants have not yet been confirmed, it is understood that they will be recognised as a retailing tenant. The nature of the proposed tenancy is a furniture and appliance store.

While there will be limited alterations by way of overall structure scale, the division of the building, in order to cater for the tenancies as per the attached plans, will involve the introduction of wall partitions.

The majority of the works will be focussed internally, with the building's existing bulk being largely unchanged through the proposal. As shown on the plans provided, the main frontage and entry foyer will be retained as part of this development. The proposal provides for a minimum 2m road boundary setback. A site plan for the proposed building is included as Annexure C to the application.

The building is being purposely fit out to undertake the activities within the building and the design of the facility is undertaken to best minimise potential effects.

As illustrated on the proposed site plan, this application includes an increase in parking provision across the site as a whole. This will factor ability for up to 10 additional car parks in that area shown on the plan as "open display 269m²". This will be in addition to the 139 parks, including 6 disabled spaces will be available on site. As per earlier comment re parking numbers.

4.0 DISTRICT PLAN ASSESSMENT

4.1 District Plan Status

The Ashburton District Plan is the most relevant plan for consideration in this application. The non-compliances with the standards listed earlier are discussed below.

4.2 Zoning

The application site is zoned Business C under the Ashburton District Plan.

The subject site has no other impediments shown on the District Planning Maps.

Although the prospective tenant seeks to restore the site's established retail use, the gross retail floor will exceed the 750m² maximum within the Business C Zone. Accordingly, this application seeks to introduce an activity not permitted within the Business C zone.

Recently Plan Change 4 (PC 4) to the Operative Ashburton District Plan was notified and submissions and further submissions lodged. Essentially, as it relates to this application, the 750m² GFA rule is to be deleted and replaced with a rule that enables trade and yard suppliers and other activities (but not department stores) as permitted activities. Assessment of the PC 4 is detailed below.

The subject site has no impediments in the form of any heritage item or trees.

There are a number of encumbrances upon the site though which include stormwater and other water related easements. There was also an encumbrance specified to Bunnings Limited in 2007. None of these impediments are expected to have a direct impact on the development proposed and since Bunnings have departed operations on the site this encumbrance will be redundant once the lease of the site ends or is terminated.

The purpose of the Business C zone is to;

The Business C Zone provides for commercial, retail, service and community activities. Commercial activities include recreational facilities such as bowling alleys and ice-rinks which are conducted within large buildings and for which a fee is paid. These types of

indoor pursuits are considered to be partially protected from the effects of surrounding activities.

The commercial and service areas of the District are located adjacent or close to Business A and B Zones, and their activities are complimentary but the level of amenity anticipated in the Zones differs. The Business C Zone provides for larger scale retailing and will never be able to replicate the intimate atmosphere and character of the Business A Zone. The buildings are anticipated to be larger with no verandas and large shop windows. Retail activities such as car yards require large, open sites that can be viewed from the road thereby restricting the landscaping of road frontages. The character is therefore defined by comparatively large buildings with some off-street parking and limited landscaping.

Medium to large sized retailing premises are anticipated in the Business C Zone but in the case of Ashburton (Kapuka) it is expected that larger format retail outlets will locate in the Business B Zone where traffic access is often going to be more convenient, access to the State Highway network is achievable without necessarily relying on surrounding local roads, and sites are typically large and therefore able to accommodate desired parking and loading on-site. Although vehicle access can also be convenient in parts of the Business C Zone, in other parts of the zone local roads provide access and more sensitive residential neighbourhoods sometimes directly adjoin business sites, or are otherwise located over the road or close by. The mix and nature of activities, and the form of built development also tends to be more variable in the Business C zoned area relative to the Business A and B Zones.

Commercial type activities are anticipated to include offices, both large and small scale providing parking for staff and visitors on-site. Parking will often be provided in the street setback. Service activities will be encouraged to locate in this zone as their location provides ease of access from central Ashburton (Kapuka) and other town centres, and is convenient to places of work.

4.3 District Plan Compliance Table

The compliance assessment table below considers and indicates all relevant site and zone standards in the application. The table below provides the relevant rule and details why the activity is non-compliant.

Any relevant transport, noise, parking or signage standards have also been included.

Rule	Requirement	Activity Status / Comments
Business Zone Standards		
Plan Change 4		
<i>Delete Rule 5.8.2(h) – Removal of Permitted Retail Activities up to 750m² GFA - Business C zone</i>		
<i>New Rule 5.8.2(h) – Provision for Provision for Trade Suppliers, Service Stations, Food and Beverage outlets and yard suppliers - Business C Zone</i>		
5.8.6 Non-Complying Activities		
(i) Retail Activity in the Business C Zone, where:		
<ul style="list-style-type: none"> • the maximum gross floor area of any individual retail tenancy exceeds 750m²; 		
Comment:		
As shown on the plans provided, the central tenancy will provide 1002m ² of retail floor area. The proposal is therefore classified as a non-complying activity.		
	Site Standards	Activity Status / Comments
5.9.1	Height of Buildings a) Maximum height of any building shall be: Business C - 10m	Existing non-compliance with building height. Building exceeds 10m at apex. There is no proposal to increase the building height as part of this proposal.
5.9.2	Setback from Streets a) The minimum setback of any building from road boundaries shall be: Business C – 2m.	Complies The building is set approximately 75m from the boundary shared with West Street.
5.9.4	Building Coverage a) The maximum building coverage shall be: Business C – 75% of net site area	Complies When taken as a whole, the application site covers a total area of 2ha. The total building coverage will be approximately 5,020m ² , which represents roughly 25% of the site.
5.9.5	Verandas a) In the Business A Zone, every building	NA

	adjoining a road boundary, on its erection or on being reconstructed or altered in any way that substantially changes the exterior appearance, be provided with a veranda.	Site is not found within the Business A Zone.
5.9.6	<p>Windows</p> <p>a) In the Business A Zone, every building adjoining a road boundary shall contain window(s) covering a minimum of 65% of the area of the ground floor wall(s) along the road frontage(s), for the purposes of the display of goods and services.</p>	<p>NA</p> <p>Site is not found within the Business A Zone.</p>
5.9.7	<p>Outdoor Storage and Display</p> <p>b) In the Business A, B, C and D Zones, the outdoor storage of goods (excluding vehicles or the display of goods for sale) shall be sited to the rear of any building and screened from public view.</p>	<p>Complies</p> <p>There will be no outdoor storage of goods.</p>
5.9.8	<p>Landscaping and Trees</p> <p>b) All sites in the Business B, Business C (except Tinwald), Business D and Business E zones shall be provided with tree planting on road boundaries as follows:</p> <ul style="list-style-type: none"> • road frontages shall be planted with a minimum of one tree for every 10m of frontage; • trees shall not be planted a distance of more than 25m apart or closer than 5m; • at the time of planting all trees shall have a minimum height of 1.5m or be at least 3 years of age. 	<p>As the proposed alterations will be largely internal, the development will not impact upon the landscaping and trees already existing on site. As shown on the site plan, elements of landscaping will remain as at present.</p>
5.9.9	<p>Amenity</p> <p>a) Where a site adjoins a site zoned Residential, Rural or Open Space, the following standards shall apply:</p> <ul style="list-style-type: none"> • the minimum setback of buildings from the Zone boundary shall be 4.5m; • buildings shall not project beyond a building envelope constructed by recession lines from points 2.3m above internal boundaries adjoining Residential Zones, as shown in Appendix 4-1 to the Residential Zone section; • a landscaped area with a minimum width of 2m shall be established and maintained along internal boundaries adjoining the Residential or Open Space Zone, and shall be planted with species, which at maturity, will screen the buildings from the adjoining sites. In addition, a solid wall or close 	<p>Complies</p> <p>Complies</p> <p>This is an existing situation and was established following approval of the resource consent LUC06/0071.</p>

	<p>boarded fence with a minimum height of 1.8m shall screen any outdoor storage areas.</p> <p>Note: For the purposes of this rule ONLY, where two sites are separated by a road, they are not considered to be adjoining.</p>	<p>While the proposal does not involve landscaping along the internal boundaries, the application does not seek to alter the current arrangement. Moreover, the situation will not be worsened as a result of this proposal.</p> <p>Additional landscaping in these locations would compromise the existing access and manoeuvring ability.</p>
5.9.10	<p>Setback from Stopbanks and Water Bodies</p> <p>a) All buildings shall be set back a minimum distance of 100m from the centre line of any stopbank.</p>	<p>Complies</p> <p>The proposed building will be approximately 2km from the nearest stopbank.</p>
5.9.13	<p>Hours of Operation, Including the Sale of Liquor</p> <p>a) Where located on a site adjoining a Residential Zone, no activity, other than residential activities, visitor accommodation or emergency service emergency call outs shall operate outside the hours of 0700 to 2100 Monday to Friday and 0900 to 1700 Saturday, Sunday and public holidays</p>	<p>Complies</p> <p>Hours of operation will remain as at present:</p> <p>Typically, between 8am to 6pm Monday-Friday and 9am-5pm Saturdays Sundays and public holidays except Xmas Day and Good Friday.</p>
	Zone Standards	Activity Status / Comments
5.10.1	<p>Lighting</p> <p>a) All fixed exterior lighting shall be directed away from adjacent properties, roads, and railways.</p> <p>b) No activity shall result in greater than a 10 lux spill (horizontal and vertical) of light on to any adjoining property within the zone, measured 2m inside the boundary of any adjoining property.</p> <p>c) No activity shall result in greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is zoned Residential measured at any point more than 2m inside the boundary of the adjoining property.</p>	Will Comply
10. Transport		
	Site Standards	Activity Status / Comments
10.8.1	<p>Minimum Parking Space Requirements</p> <p>Commercial or Retail Activities – 3 spaces per 100m² Gross Floor Area</p>	<p>In order to calculate GFA, the retail area (1002m²) must be combined with the</p>

	<p>plus 1 space per 100m² outdoor storage or outdoor display area for customers plus 0.5 spaces per 100m² Gross Floor Area for staff</p>	<p>additional 360m² of ancillary space.</p> <p>1362m² of retailing activities would require 14 x 3 spaces = 42 spaces</p> <p>Staff: 14 x 0.5 = 7 spaces.</p> <p>Total requirement for this proposed retail tenancy is 49 car parking spaces.</p> <p>As shown on the site plan, a generous area to the front of the building will provide 139 car parking spaces with addition of another minimum 10 spaces to be provided for the site. There is ability for further staff parking to be provided at the rear of the building (this could be circa 15 spaces for all three tenancies) for the site as a whole. Therefore up to 25 additional spaces provided across the site creating a maximum of 164 spaces. It is put that as the proposed tenancy requires 49, this will comply on its own as the site exists at present.</p> <p>It is appreciated that two additional tenancies (with comparable parking requirements) may occupy the remainder of the building in the future. A recalculation of parking requirements for those tenancies will occur when consent is lodged for those activities. The current proposal does not affect the existing parking for both Robert Harris café and Canterbury vets for the site. .</p> <p>Nevertheless, it is not considered that the application site will experience traffic or parking related issues in the future.</p> <p>The proposal essentially seeks to reintroduce the former retail use within the existing building with less parking demand as only part of the building is occupied at this time. Therefore there is no increased impact on traffic generation or safety on State Highway 1 than what previously existed.</p> <p>It is also important to note the National Policy Statement on Urban Development and how the Government has given direction to all Councils that moving forward over the next 18 months, car</p>
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		parking requirements should be significantly reduced with the exception of accessible parking.
10.8.3	<p>Car Spaces for People with Disabilities</p> <p>a) Where car parking is provided for a non-residential activity, the minimum number of parking spaces for people with a disability shall be as follows:</p> <ul style="list-style-type: none"> • 2 spaces where between 21 and 50 car parking spaces are provided on site; • plus 1 space for every additional 50 car parking spaces provided on site, or part thereof 	<p>Complies</p> <p>Based on the above calculation, 2 accessible parking spaces are required for the proposed retail tenant.</p> <p>Based on the need for an additional accessible parking space per 50 parks, it is anticipated that the provision of disabled spaces across the site (6) will appropriately cater for future tenancies and also the existing commercial building to the south.</p>
10.8.6	<p>Cycle Parking</p> <p>a) All developments, other than residential and farming, are to provide cycle parking at a rate of 1 cycle space for every 20 car parking spaces provided.</p> <p>b) All required cycle parking shall be provided in cycle stands and laid out in accordance with Appendix 10-3.</p>	<p>Will Comply</p> <p>After noting the scale and nature of this retail activity, it is not anticipated that cycle parking will be routinely necessary in this instance.</p> <p>Nevertheless, bicycles will be accommodated to the front of the site.</p>
10.8.7	<p>On-Site Manoeuvring</p> <p>a) The manoeuvring area from the road transport network boundary to any parking space shall be designed to accommodate a 90 percentile car (refer Appendix 10-4).</p> <p>b) Onsite manoeuvring for a 90 percentile car (refer Appendix 10-4) shall be provided to ensure that no vehicle is required to reverse either onto or off a site where:</p> <ul style="list-style-type: none"> • any activity has vehicle access and/or vehicle crossings to an arterial road; • any activity provides 4 or more parking spaces having vehicle access and/or vehicle crossings onto a principal or collector road; • any activity provides 10 or more parking spaces; • three or more residential units share a common access. 	<p>Complies</p> <p>It is anticipated that those vehicles frequenting the site and the proposed retailing tenant will be provided suitable access via the existing vehicle crossings shown on the plans.</p> <p>As at present, the remainder of the site will provide for parking and manoeuvring.</p>

<p>10.8.8</p>	<p>Loading Space Provisions</p> <p>a) Every site in the Business Zones and in the Commercial Area of the Aquatic Park Zone, except for the Business A Zone, shall provide one loading space and associated manoeuvring area.</p>	<p>Complies</p> <p>Although there is no formalised loading space shown on the site plan, the yard area to the rear is expected to receive delivery vehicles as at present.</p>
<p>10.8.10</p>	<p>Surface of Parking and Loading Areas</p> <p>a) The surface of all required parking, loading and trade vehicle storage areas in the Residential Zone, Business A, B, and C Zones, and the Aquatic Park Zone (except parking areas within the Recreational Area of the Aquatic Park Zone), shall be formed to provide an all-weather surface.</p> <p>b) The first 3m of all such required areas (as measured from the road boundary) shall be formed and sealed for the full width of the vehicle crossing, to ensure that material such as mud, stone chips or gravel is not carried onto any footpath, road transport network or service lane.</p>	<p>N/A</p> <p>Although internal alterations have been sought through this application, it is noted that the necessary surfaces have already been constructed to a suitable standard for the anticipated use and vehicle movements.</p> <p>The vehicle crossings shown on the site plan will remain formed and sealed to an acceptable standard.</p>
<p>10.8.12</p>	<p>Queuing Length</p> <p>a) Where car parking is provided within a site, a minimum queuing length shall be provided:</p> <p>100+ Parking Spaces: 30m</p>	<p>This is an existing situation. A distance of 30m is not provided between West Street and the first available parking space. That being said, there is a separation of 23m to the carriageway.</p> <p>It is also noted that the site's spacious layout provides multiple routes for drivers upon arrival. Accordingly, the 7m shortfall is not expected to be an issue on this occasion.</p>
<p>10.9.3</p>	<p>Distances of Vehicle Crossings from Intersections</p> <p>a) No part of any vehicle crossing shall be located closer to the intersection of any roads than the minimum distances specified:</p> <p>Arterial to Arterial – 30m (offered as a maximum as West Street is recognised as a State Highway).</p>	<p>West Street is recognised as a State Highway and is therefore managed by the New Zealand Transport Agency.</p> <p>Notwithstanding, it is noted that the existing vehicle crossing is approximately 90m from the intersection with Queens Drive to the south west.</p>
<p>10.9.5</p>	<p>Maximum Number of Vehicle Crossings</p> <p>a) The maximum number of vehicle crossings to a site per road frontage shall be:</p> <p>Collector (101m+ frontage) – 3 crossings</p>	<p>Complies</p> <p>There is only one vehicle crossing to West Street (State Highway).</p>

	Principal (<100kmhr & 101m+) – 2 crossings.	
10.9.6	<p>Sight Distances from Vehicle Crossings</p> <p>a) Unobstructed sight distances shall be available from all vehicle crossings</p> <p>0-50km/h – 45m</p>	<p>Complies</p> <p>There are unobstructed views in either direction from vehicle crossings.</p>
10.9.9	<p>State Highway Access</p> <p>a) Any new subdivision or land use activity that would require direct access to a state highway at a location where there is currently no such direct access, or would require any alteration to, or increase in the use of an existing direct access to such a state highway, shall be a restricted discretionary activity.</p>	<p>Complies</p> <p>Direct Access is currently provided from the application site to the State Highway.</p>
13. Signs		
	General Standards	Activity Status / Comments
13.8	<p>a) All signs shall relate to or be associated with services, products or events available or occurring on the site on which the sign is located, except where specifically provided for as a permitted activity for a temporary sign or traffic sign.</p> <p>b) All signs shall comply with the height, and where applicable recession plane requirements for the zone in which they are located, but shall not be required to comply with rules relating to setbacks from road boundaries in each of the respective zones.</p> <p>c) All signs attached to buildings shall not exceed the highest point of the roof.</p> <p>d) No sign shall be attached to a tree, other than a sign identifying the species of tree and/or its classification in terms of the District Plan.</p> <p>e) No sign shall be erected on or adjacent to a road which will:</p> <ul style="list-style-type: none"> • obstruct the line of sight of any corner, bend, intersection or vehicle crossing; • obstruct, obscure or impair the view of any traffic sign or signal; • physically obstruct or impede traffic or 	<p>Will Comply – on building signage will be provided and potentially street signage at or about the same position at the Robert Harris signage adjoining the entrance.</p> <p>Will Comply</p> <p>Will Comply</p> <p>n/a</p> <p>Will Comply</p>

	<p>pedestrians</p> <ul style="list-style-type: none"> • resemble or be likely to be confused with any traffic sign or signal; • use reflective materials that may interfere with a road user's vision; • use flashing or revolving lights; • project light onto the road so as to cause a hazard or distraction to users of the road (including pedestrians). <p>f) The minimum lettering sizes in Table 13-1 below shall apply to all signs located within 10 horizontal metres of a road:</p>	Will Comply
13.9.6.1	<p>Location of Signs</p> <p>a) All signs (excluding sandwich boards) shall be a minimum of:</p> <ul style="list-style-type: none"> • 2.5 metres above a footpath, and • 0.5m setback from the kerb of a road or road boundary. <p>except where the sign is attached for its full length and width to the façade of a building. Veranda fascia signs shall not exceed 900mm in height.</p>	Will Comply
13.9.6.2	<p>Signs Attached to Verandas</p> <p>a) Under veranda signs shall be no closer than 1.5m from any other under veranda sign.</p> <p>b) Signs above verandas but attached to the veranda (excl. veranda fascia signs) shall not exceed 1.2m in height above the top of the veranda or not extend beyond the profile and height of the building, whichever is less, and shall be setback at least 500mm from the fascia line.</p>	N/A There is no length of veranda proposed.

Table 1: District Plan Compliance Assessment

4.4 Activity Status

Consent is sought for a **non-complying activity**, as this retail activity within the Business C Zone has a maximum gross floor area that exceeds 750m²

The compliance table identifies additional non-compliance's relating to the site standard's in the Operative Ashburton District Plan.

The extent of any discrepancies are not significant and an assessment of the effects demonstrates that the impact of the non-compliances will be less than minor.

5.0 ASSESSMENT OF EFFECTS

As already mentioned, retail activities of this scale are not permitted within the Business C Zone of the Operative District Plan. The following assessment of effects arising from the non-compliances with development standards is discussed below.

In order to succinctly address the relevant assessment matters relating to each element of the scheme, the proposed development has been divided into the following subsections.

5.1 Assessment of Effects – Non-Compliance with Retail Activity Standard

The key non-compliance of this proposal is the exceedance of the permitted gross floor area for a retail activity within the Business C Zone. Within the Ashburton District Plan, rule 5.8.6(i) specifically references retail activity as a non-complying activity where the maximum gross floor area of any individual retail tenancy exceeds 750m².

Of note is that on this site, the existing building has functioned and large building supplies trading/retail facility as Bunnings warehouse since 2007 – 2020. This proposal is less than a third of the retail area as a furniture and application store will not create any significant increase on traffic generation nor parking demand.

Within the reasons for rules, those related to Retail Floorspace, refer to dispersal of general retail activity throughout the Business areas may result in adverse effects on the functioning, convenience, vitality, pleasantness and viability of the inner commercial areas of the towns. Retail growth in Ashburton over the past two-three decades has expanded significantly including the likes of Mitre 10 MEGA, The Warehouse, Kathmandu, Harvey Norman, Smiths City to name a few.

Section 5.7.16 of the District Plan states:

“Unlimited retail activity throughout the business areas may also result in the dispersal of activity along the State Highways, with consequential adverse effects on traffic safety and efficiency, traffic congestion and vehicle/pedestrian conflicts. Furthermore the existing public infrastructure in the inner commercial areas, in the form of public car-parking and other street developments, may become inefficiently used.”

While it is also noted that medium to large scale retailing premises will generally be located within the Business C Zone, the District Plan also states how, in the case of

Ashburton, larger format retail outlets are also expected to locate within the Business B Zone.

Focussing such development within the Business B Zone is partially due to the perception of more convenient traffic access. It is also anticipated that occupants will benefit from improved connectivity to the State Highway and there will be a greater availability of larger sites which are able to accommodate the necessary parking requirements.

While this generalisation may be correct when taking the District as a whole, the proposed application site offers each of these benefits within the Business C Zone.

The entirety of the existing building was utilised for retailing activity for years, having only recently ceased trading as Bunnings in June 2020. It is therefore put to the Council that a much larger retail use is already anticipated in this location and the proposed development will not contravene the intentions of ADC's Plan Change 4. The purpose of this Plan Change is to amend relevant definitions and rules relating to commercial activities and Business Zones. Doing so will ensure appropriate management of various types of activities including introducing thresholds as to the range and extent of commercial activities enabled to locate within particular Business Zones. These amendments are intended to reflect concurrent alterations to the Objectives and Policies of the District Plan's Business Section in order to reinforce and strengthen the role of the Town Centre for commercial activity.

Through the retention of a retail use, albeit on a smaller scale, the site continues to offer potential economic benefits, travel efficiency and consumer choice, whilst simultaneously creating additional employment, both in the development's construction phase and on an ongoing basis in the retail store created. While the magnitude of these positive effects would be relatively small, they will outweigh any detrimental impact upon the Business Zones found elsewhere across the District. The scheme does not seek a change of use and as such, avoids introducing an additional non-compliance within this location.

While the possibility of three individual tenancies has the potential to generate greater daily traffic movements within this surrounding area, this will not be to an extent that unfavourably impacts on other business activities in the vicinity. On the contrary, it is likely that there will be a benefit to other businesses within the vicinity due to the greater number of visitors to this part of town.

The resultant effects of this proposal are therefore considered to be less than minor. The size and scale of the proposed tenancies and necessary car parking areas are such that this development could not easily be accommodated within the (more central) Business A and Business B Zones, short of demolishing a significant number of buildings and creating a land area the equivalent of what is available at the site and provided economically, the cost of development vs the land value is feasible.

The proposal will have little effect on the consolidation of a suburban business zones (Business A zones) which contain smaller scale shops in general. The effects on infrastructure such as car parking will be minimal as the proposal provides sufficient car parking for the intended use.

The spacious and easily navigated layout will result in few adverse effects in terms of traffic movements, safety, or site efficiency. This existing vehicle crossing is unobstructed and facilitates a functional access/egress arrangement. All parking and manoeuvring within the site will operate within the consented requirements and/or the District Plan and traffic engineering standards for the site.

5.1 Assessment of Effects –Plan Change 4 and the Impact on Ashburton CBD

Ashburton District Council has prepared Plan Change 4 to its Operative District Plan (2014). The change covers the following areas:

- *Amendments to the Objectives and Policies of the Business Section (5.4) to reinforce and strengthen the role of the Town Centre (Business A) for commercial activity*
- *Amendments to the Rules of the Business Section (5.8) to manage various types of business activities, including introducing thresholds as to the range and extent of commercial activities enabled to locate within particular Business Zones.*
- *Amendments to the definition of commercial activities and associated sub-groups to improve clarity and certainty as to the range of activities provided in each of the respective Business Zones.*

It is appreciated that the Plan Change proposes alterations to activities expected in the Business C zone. The alterations involve rule 5.2.8 which relates to the type of retail activities permitted in the zone.

The period for submissions and further submissions has closed. The Council did not receive any submissions challenging these proposed changes with the exception of Foodstuffs who opposed in part the provisions as they sought ability for a supermarket operation to establish on land they own at 407 West Street, Ashburton. This is a Business C Zone.

It is assumed that no appeals have been lodged on this matter from the submitter.

The assessment below includes some economic analysis of the impacts from the proposal on retail activity and health of the Ashburton town centre (Business A).

Plan Change 4 insofar as the Business C zone is involved includes;

Delete Rule 5.8.2(h) – Removal of Permitted Retail Activities up to 750m² GFA - Business C zone

New Rule 5.8.2(h) – Provision for Provision for Trade Suppliers, Service Stations, Food and Beverage outlets and yard suppliers - Business C Zone

Retain the ability to establish Commercial Services and Entertainment Activities given the mix of established activities and provision for local convenience needs provided by such activities.

Amendments:

New Rule 5.8.2(l) – Provision of commercial services in the Business C zone

New Rule 5.8.2(m) – Provision of entertainment activities in the Business C zone.

The proposal the subject of this application from Tricroft Properties Ltd is defined as a large format retailer being a furniture and appliance store which would fit the new proposed definition of a department store.

It is noted that rule 5.8.2(h) is to be deleted and replaced with a rule that has no maximum specified Gross Floor Area (GFA) and instead enables trade and yard suppliers, food and beverage outlets and service stations as permitted activities.

With regards to this development specifically, it is important to first consider the following wording for the zone description taken from the District Plan:

- *The Business C Zone provides for commercial, retail, service and community activities.*
- *The Business C Zone provides for larger scale retailing and will never be able to replicate the intimate atmosphere and character of the Business A Zone. The buildings are anticipated to be larger with no verandas and large shop windows.*

The character is therefore defined by comparatively large buildings with some off-street parking and limited landscaping.

It is noted within the Summary of Changes for Plan Change 4 that: The Plan Change does not seek to:

- *Introduce any new zones, or amend any existing zone boundaries.*
- *amend the function or purpose of any zone. (underlining added)*
- *amend the extent (or status) of retail or commercial activities already provided for in any zone other than Business zones (that is provisions in the Residential zone, Rural zone etc are not amended).*

As detailed above this proposal for retail being a department store is larger scale retailing and the function and purpose of the Business C zone does enable this as detailed in the description.

This proposed facility is established within Ashburton now (Business B zone) but is required to either relocate to another site (of which this site is confirmed) or remove themselves from Ashburton altogether. There are strategic and economic reasons for this subject department store for doing so.

In terms of a department store such as a furniture and appliance store operating within the Business A zone, it is not considered an appropriate zone for this facility.

The nature of department stores generally is they need ability for customer parking on site for the loading of goods and equally for service vehicles (often heavy goods vehicles (HGV)) for the loading and unloading facilities as required. Ashburton's Business A zone is limited in many cases to on street loading and unloading.

The subject site has established access for loading and unloading as shown on the general site plans provided with the application and ample on-site availability for customer and staff parking.

The application site (former Bunnings Warehouse) has been accepted as retail orientated for many years until recently in 2020. This was approved resource consent in 2006 as;

LUC 06/0071 – Resource consent to erect the existing Bunnings Warehouse store which is a hardware, garden and building supply outlet and a vet clinic and café within a separate building located on the site. The site is complete with a significant amount of on-site car parking.

This consent was a redevelopment of an existing building on site which formerly was PGG Wrightsons main Ashburton store.

For Bunnings it was the scale and location of the site with ability for car parking and heavy vehicle access/egress that were some key components for establishing and operating at West St. Until Bunnings ceased trading from the site in June 2020 the site had functioned well as a trade supplier with few, if any, issues.

This proposal promotes the re-establishment of a retail activity within part of the site that will deliver an appropriate use of land that is zoned for commercial use being a Business C zone, which as per the site description does envisage larger scale retail. This is not a greenfield development or major transition of development from retail that had occurred when the facility operated as Bunnings. In fact, this proposed tenancy is already established in Ashburton so is not a “new player” in the local market. It is basically a relocation of position which therefore opens up opportunity for another retailer to take over the current tenancy occupied by the furniture and appliance retailer.

Of note too is that this proposal is essentially Stage 1 of the use of the building with two additional larger scale retailers proposed to establish within this site. More information will be provided and detailed in a future resource consent application.

The Business C zone permitted retail activity with a gross floor area up to 750m² however with that rule being removed the proposal is still fundamentally a commercial activity being retail display and sales. The removal of the rule however makes the proposal non-complying which it did anyway regardless of Plan Change 4, as the facility exceeded 750m².

There will be no accumulation of pedestrian activities as a result of locating the development on the proposed site nor is there a cumulative type effect with this development catering for a smaller tenancy and being located in proximity to the nearby commercial building.

The nature of retailing for this type of development is that a significant number of shoppers travel by vehicle to the site as opposed to walking to the site. Accordingly, the businesses likely to locate here wish to be where they are easily accessible and there is a suitable supply of parking available.

Although much smaller than the gross floor area associated with the former Bunnings Warehouse retail store, the three separate tenancies will each cover approximately 1000m². At this scale (and when combined with the desired car parking), the proposed development provides retail floor space that would not be suited to Ashburton's CBD area.

Despite Proposed Plan Change 4, the development sought will remain consistent with the economic and urban form objectives and policies in the Ashburton District Plan. It is noted that the Plan discourages large format retail development in the Business A zone, and also encourages the occupation and redevelopment of existing sites in other zones, as long as they do not detract from the consolidation of Ashburton's inner retail area and provided that the adverse effects of this growth are avoided, remedied or mitigated.

Those policies that are amended under Plan Change 4 and stated within the Summary of Plan Change 4 are;

Amendments to Objective 5.1 to:

- *Provide greater recognition of the contribution of business activities to the social and economic wellbeing of the district, including through:*

- o focusing commercial activities and retail activities to support vibrant and viable centres;*
- and o business activities are able to operate efficiently and effectively as subject to environmental standards that reflect their location, function and role.*

Amendments to Policy 5.1A to:

- *Identify the need to strengthen the function and role of town centres.*

- *Recognise the Ashburton town centre as the primary centre for the district.*
- *Manage commercial activities seeking to establish outside of town centres to ensure they do not, individually or cumulatively, detract from the role and function of town centres.*

The subject proposal is of such a scale and size, and is not a business that is deemed to detrimentally affect the function, integrity, convenience and viability of the more specialty shops and business within the inner commercial areas of Ashburton. There is little or no ability to create comparably scaled units within central Ashburton that will benefit from a similar provision of car parking.

As such, the development is not seen as threatening to the existing CBD environment.

Amendments to Policy 5.1B to:

- *Provide opportunities for business activities outside of town centres, limiting retail activities and commercial activities where these provide a convenience role, are ancillary to a permitted business activity, and do not compromise town centres.*

The proposal will enhance the area by providing opportunity outside of the town centre edge and improving larger scale retail opportunity. Locating the proposed development in this part of Ashburton will not significantly detract from the amenity of the adjoining area or the consolidation of the inner retail area of central Ashburton.

The location, scale and convenience of the proposed tenancies can be said to be a more common development in today's modern domestic shopping environment. These types of development are usually not within CBD areas and are located either in or on the fringe of the inner business areas. This therefore positions it well for reduced travel times in terms of fossil fuel usage for vehicles and reduced travel times.

This proposal seeks to reestablish a retailing activity within the existing building. Although retail premises are generally associated with a high volume of traffic, the works will not represent an increase in traffic generation.

Although located outside of the Ashburton CBD, this proposal would provide economic benefits, including improving travel efficiency and consumer choice. Additional employment opportunities will also become available.

Policies 5.1C-E are considered relevant for Business B and heavy industrial related activities and not really specific to the Business C zone other than where LFR is concerned which we considered has been well assessed as part of this proposal.

For the aforementioned reasons, it is also considered that the proposed development will enable people and communities to provide for their social, economic, and cultural wellbeing. In doing so, the proposal is in accordance with the sustainable management of resources as set out under Section 5 of the RMA.

Business A Zone

The Business A zone in terms of established retail is predominantly smaller offerings (with the exception of Redmonds who are a well-established and respected specialty retail furnishing and flooring business. Redmonds have always been part of the Ashburton CBD).

When the Kmart and ancillary retail Ashburton proposal was undergoing the resource consent process there was some detailed economic impact assessments undertaken by the applicants (River Crossing Limited). As an aside Tricroft Properties Ltd and River Crossing Ltd are two companies that have the same directors and therefore we wish for some of the economic considerations included in the Kmart application to be factored in this application insofar as it relates to effects on Ashburton's Business A zone.

While Kmart is a large format retailer with extensive offerings in terms of product there are some similarities in terms of some products the proposed tenant for this site has.

The Kmart Environmental Impact Assessment "the EIA" prepared for River Crossing Ltd by Mr Derek Foy from Market Economics Ltd, detailed (in the form of evidence to the resource consent hearing on the 11th November 2019) and concluded that *the proposed development would result in a decrease in the aggregate sales of all retail stores within Ashburton's Business A and B zones of 7.6% and 6.2% respectively.*

It was considered that those effects were based on the conservative assumption that the proposed large format retail ("LFR") store (KMart) *will not reduce leakage of Ashburton's retail sales.*

The proposed KMart store *would compete with both small and large format stores in Ashburton, with the town's department stores likely to absorb much of the impact, being*

those with the greatest competitive overlap with the proposed LFR store (being both comparable in range and size). Those stores are well placed to absorb trade competition effects and unlikely to close given their strategic importance in their brand and the large distance to the nearest alternative in the brand. To that end the department store the subject of this application will have been factored as one of the towns existing department stores.

Within the Business A which can be said to consist of smaller specialty stores, it was found that they would compete with the proposed Kmart store to some extent, although due to the breadth of offer in the Kmart store's range *no one store would face very significant direct competition, and trade competition impacts on specialist stores will be spread across many businesses.*

Most of those specialty stores will have a point of differentiation to the Kmart store, *such as price point, quality, service or range, and would be expected to be relatively resilient to a large format retailers broad, and general trading focus.*

It can be said that there is a diverse range of retail and service activities in the town centre now which indicates both an attractiveness to a wide range of activities (retail, services, offices, hospitality, professional space, industry, rural, community etc.), and a robustness to any trade competition effects within a single industry. This has to be considered too in the context of Covid- 19 (which arrived after the decision on KMart), which will have had some effect on business during the lockdown but in perspective, all businesses other than supermarkets, service stations and pharmacies, suffered from that in one way or another so effectively all retail and not to mention hospitality, will have suffered to some extent.

At the time, it was indicated that the Ashburton town centre was in reasonably good health and is very dominant within both Ashburton District and the surrounding rural areas of other districts.

It was outlined at the time that the *“indirect impacts on the Ashburton town centre are expected to be less than 4%”. Effects of that magnitude are not significant, would not result in a serious decline in the viability of the Ashburton centre as a whole, or, in all probability, any noticeable adverse effects on the centre at all.* As mentioned, this resource consent proposal is for a tenant that already exists in Ashburton so is not in a situation of adding competition to the existing retail marketplace of Ashburton. It is simply a change of location

within Ashburton to another Business Zone which already consisted of large scale retail being Bunnings, a trade supplier, until recent times.

It was outlined as well that the Kmart proposal “*would have some minor positive economic effects including improving travel efficiency and consumer choice, and creating additional employment*”.

Importantly overall, the EIA concluded that the proposed development is consistent with the economic and urban form objectives and policies in the Ashburton District Plan, “*because the District Plan discourages large format retail development in the Business A zone, but encourages the occupation and redevelopment of existing sites in other zones, as long as they do not detract from the consolidation of Ashburton’s inner retail area and provided that the adverse effects of this growth are avoided, remedied or mitigated*”.

It is considered that this application does not detract from the Business A zone or the consolidation of a CBD that predominantly provides for specialty smaller scale retail and commercial activities. Those policies that are still relevant factoring the amended policies 5.1A-5.1C under Plan Change 4.

Accordingly, there are little to no adverse effects that are anticipated to arise from this activity.

5.2 Assessment of Effects – Landscaping

The relevant assessment matters for the amenity in the form of trees and landscaping is contained in section 5.11.8 of the Operative Ashburton District Plan.

- a) *The extent of the visual impact of buildings and outdoor storage areas on sites with a reduced area of landscaping.*

The proposed retail unit forms part of the established structure that has existed on site for an extended period.

Although visible from West Street, it is considered that the 75m separation from the road boundary sufficiently mitigates the visual impact associated with this building. The landscaping to the site frontage, when coupled with the generous area of car parking further offsets the impact upon the thoroughfare.

By retaining the existing site frontage, the proposal will not compromise the character and appearance currently experienced in this location. With a preference for preserving visibility and vehicular/pedestrian safety, there is limited or no potential to plant additional trees on site and/or along the frontage.

The visual impact from no trees will not be significant to the extent that there are existing trees on the opposite side of the road. The planting of trees in front of the car park would be very close to the road frontage.

b) *The extent to which the site is visible from adjoining sites, particularly from residential areas.*

The subject land is bordered to the south west by the Residential C Zone. While the application site and the existing building will be visible from properties along Queens Drive, the established bulk and design of the structure will not be notably altered through this development. Moreover, it is noted that the proposal will border the rear of these adjoining dwellings. The introduction of a retailing operation within the central tenancy will not present any visual issues for the neighbouring residents.

The application site is sufficiently removed and obscured from the Residential C Zone on the other side of East Street. From this distance, the proposed alterations will not be distinguishable.

Although there is an area of Open Space A zoned land to the north of the application site, the development will have no impact in this direction. With the works taking place within the existing building, it is not envisaged that these internal alterations, or the associated future activity will result in a greater visual impact than that currently experienced.

c) *The extent to which other factors may compensate for a reduced landscaped area, such as:*

- *a higher quality of planting over a smaller area;*
- *a high standard of architectural design that is not visually obtrusive;*

As mentioned, the proposed development does not involve notable alterations to this existing site. When observed externally, it is anticipated that the building itself, along with

the remainder of the subject land will remain largely as at present. There are no significant structural alterations or intensification of use sought through this application. The existing landscaping is considered sufficient in this instance given the nature of the area and the presence of landscaping and trees within the vicinity of the site in question.

There will be no apparent alterations by way of architectural design. Having been in place for a significant number of years, the overall design and exterior of the building is accepted within this location. As this proposal is one tenancy of a potential three, dividing the premises into three separate tenancies is not expected to compromise the existing level of visual amenity.

Rather, by breaking up this sizeable façade, the applicant will introduce an element of variation and diversity which will complement the overall site appearance and accentuate the architectural features currently in place. A more interesting front elevation provides for a high standard of visual amenity.

- d) *the location of different activities on site and their relationship to the boundaries of the site and their visibility from the general area.*

The proposed retailing tenant is located centrally within the existing building on site. Said building is setback a considerable distance from the road boundary (approximately 75m), has existed on site for an extended period and is accepted within this particular setting.

As the scale of the structure will not be altered, the established internal boundary setbacks will not be compromised through this proposal. The separation from neighbouring sites will remain as at present, affording nearby residents their current level of amenity. Overall visibility is not envisaged to be an issue as the proposed exterior appearance will present no additional impact upon the street scene over and above the situation currently accepted.

- e) *The visual appearance of the site and the length of boundary open to public view and the impact of buildings and activities on site on the character and amenity of the area.*

The site has recently been vacated by Bunnings Warehouse who operated a retail activity in this location for an extended period. The proposed division of the existing building will

result in smaller tenancies occupying approximately a third of the floor area each. The retail tenancy sought through this application will be located centrally within the former Bunning's Warehouse premises, as shown on the plans included as Annexure C to this application.

The existing separation from West Street will not be reduced as a result of the development. Similarly, the level of openness and visibility at the front of the site will remain as at present.

As noted above, the division of the building will result in a more varied and interesting front elevation. Such cosmetic alterations will simultaneously enhance the appearance of the wider area without detrimentally affecting and character and amenity of the local area.

The site is within a Business C zone, which provides for retail activities such as those proposed. Although the gross floor area in this instance is slightly larger (approximately 250m²) than that permitted within this zone, the proposal for one retail tenancy brings the existing non-compliance closer to the (retail floor area) requirements of the Operative District Plan. The scheme is considered an improvement in this regard.

5.3 Assessment of Effects – Amenity

The relevant assessment matters for amenity is contained in section 5.11.9 of the Operative District Plan.

- a) *The extent of the visual impact of the building from the adjoining site and its impact on the amenity and character of the environment taking into account its design and appearance, bulk and length of wall.*

The rule requires that a minimum 4.5m setback be applied from a site adjoining an Open Space or Residential Zone. As the existing building will not be extended through this application, the existing separation distances will be retained on site and remain unchanged. In particular the building on the southern boundary is at least 5.5 metres from the Residential C boundary. This is an existing situation. Moreover, the absence of external alterations means that the current visual impact will not be compromised as a result of the development.

On the whole, the proposal will not represent a negative deviation from established situation. Accordingly, there will be no impact upon the amenity and character of the surrounding environment.

- b) *The extent of any overshadowing created and the impact this may have on any outdoor living spaces or main living areas within a residential unit.*

The scale of the existing building is accepted by neighbouring individuals residing within adjacent dwellings. These Queens Street properties are southwest facing and removed from the boundary shared with the application site. The orientation will preserve these neighbours from a detrimental loss of sunlight in the afternoon/evening and the retention of the existing built form will not result in an increase in overshadowing.

- d) *The potential to mitigate any adverse effects created through options on the layout of buildings, car parking and storage areas on site.*

The design of the building, the overall layout of the site and the provision of storage and car parking has historically proved sufficient for a much larger retail activity upon the site in question.

It is considered that the internal and cosmetic changes sought through this application will not compromise the existing situation and the site will continue to operate in a practical and efficient manner.

There is ample space for each of the three tenancies to function alongside each other without conflict or issue.

- e) *The potential for the development to affect the amenity of the adjoining environment in terms of such matters as noise, glare, dust, smell and vibration.*

There will be no effects from this proposal in terms of any of those matters listed in this matter. The proposed activity will be undertaken indoors, albeit with the exception of the associated customer and staff vehicle movements on the site. As this area has provided retail and commercial car parking for a number of years, it is not expected that a

reestablishment of retail activity within the building will result in excessive noise generation.

On the contrary, considering the heavy duty products and materials that were formally available to purchase at Bunnings Warehouse, it is envisaged that the proposed furniture and appliance store will not create any effect greater than what existed previously.

Further, the background or ambient noise associated with West Street (being a State Highway) will be such that the proposed activity is not expected to impact upon the amenity of the adjoining environment.

The proposed retail tenancy will have internal lighting for shop operations. Considering the former activity and the nature of the existing environment, this will not create any significant issues. There will be no dust, smell or vibration.

5.4 National Environmental Standards

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NES) came into effect on 1 January 2012.

The statements in italics below are direct from the Ministry for the Environment's website and are included for the purpose of identifying the likelihood of contamination at this site.

The NES for Assessing and Managing Contaminants in Soil to Protect Human Health:

- *provides a nationally consistent set of planning controls and soil contaminant values*
- *ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use.*

The NES classifies as permitted activities (meaning no resource consent required if stated requirements are met):

- *removal or replacement of fuel storage systems and associated soil, and associated subsurface soil sampling*
- *soil sampling*
- *small-scale (no greater than 25 cubic metres per 500 square metres of affected land) and temporary (two months' duration) soil disturbance activities*

- *subdividing land or changing land use where a preliminary investigation shows it is highly unlikely the proposed new use will pose a risk to human health.*

Activities requiring a resource consent under the NES include:

- *the development of land where the risk to human health from soil contamination does not exceed the applicable soil contaminant value (classified as a controlled activity, meaning resource consent must be granted)*
- *the development of land where the risk to human health from soil contamination exceeds the applicable soil contaminant value (classified as a restricted discretionary activity)*
- *the development of land where the activity does not meet the requirements to be a restricted discretionary, controlled or permitted activity (classified as a discretionary activity).*

Section 6 methods of the legislation states;

6 Methods

- *(1) Subclauses (2) and (3) prescribe the only 2 methods that the person may use for establishing whether or not a piece of land is as described in [regulation 5\(7\)](#).*

(2) One method is by using information that is the most up-to-date information about the area where the piece of land is located that the territorial authority—

- *(a) holds on its dangerous goods files, property files, or resource consent database or relevant registers; or*
- *(b) has available to it from the regional council.*

(3) The other method is by relying on the report of a preliminary site investigation—

- *(a) stating that an activity or industry described in the HAIL is, or is not, being undertaken on the piece of land; or*
- *(b) stating that an activity or industry described in the HAIL has, or has not, been undertaken on the piece of land; or*
- *(c) stating the likelihood of an activity or industry described in the HAIL being undertaken, or having been undertaken, on the piece of land.*

(4) The person must—

- *(a) choose which of the 2 methods to use; and*

- *(b) meet all the costs involved in using the method that the person has chosen.*

The site is listed on Ecan's Listed Land Use Register as having or having had HAIL activities upon the land. A copy of the LLUR is attached as Annexure F.

Environment Canterbury's Listed Land Use Register (LLUR) determines that there have been HAIL activities that have occurred within the application site. The activities affecting the relevant land are as follows:

- A17 – Storage tanks or drums for fuel, chemicals or liquid waste.

Notably the NES Regulations become applicable where an application is to subdivide or change the use of the land. In this case there is no subdivision and the proposed retail tenancy does not represent a change of use. Although the gross floor area will exceed that permitted for a retail activity within the Business C Zone, it will be considerably smaller than the retail floor area available to the former Bunnings Warehouse operation. There are no earthworks or land disturbance issues that arise with this proposal as the site is sealed or in the case of the rear or western portion of the building there is no proposal to undertake earthworks or land disturbance to trigger the NES requirements.

ECan's historical records indicates how the storage of fuel and chemical or liquid waste occurred on site until 1998. The information available suggests that one underground storage tank was removed from the site in late 1997. Canterbury Regional Council understand that there is another underground storage tank on the site, the age and size etc. is not known though. In any event the site has operated as a building, homewares and garden supplies facility which has a sealed surface for almost all of the site and therefore no pathway for contamination to reach the soil nor from any existing contamination within the soil exists.

Although the A17 HAIL activity has not been formally investigated, a continuation of retail uses is considered an appropriate land use in this location even after the NES came into effect on 1 January 2012.

Moreover, while establishing a smaller retailing tenancy as per the plans will not result in soil disturbance, it is also worth noting how the identified HAIL activity will not have occurred at the specific location that the proposed retail tenant intends to occupy.

Further, the effects of this retail operation are contained within a building(s) and will be upon a sealed floor so there is limited or no ability for a contamination pathway to have any ongoing or potential effect for those within the building.

In all, the information available gives no evidence of contamination on site and there is nothing to suggest that the land, subject to this application requires further investigation. Accordingly, no further PSI or DSI work is considered necessary in this instance.

Moreover, considering the site's history and ongoing activity, its existing relationship with neighbouring properties and the future relationship with surrounding land, the proposed development will not constitute a significant change of use within the locality.

In light of the above, it is highly unlikely that there is a risk to human health from this proposal.

5.5 Positive Effects

This proposal promotes the reestablishment of a retail activity within the site that will deliver appropriate use of land that is zoned for commercial use being a Business C zone. The former Bunnings Warehouse site has been accepted as retail orientated for many years until recently in 2020.

Although the scheme will exceed the maximum retail floor area within this location, the proposed development seeks to establish a tenant that would occupy approximately a third of the former Bunnings Warehouse building.

Accordingly, there are little to no adverse effects that are anticipated to arise from this activity.

5.6 Effects Summary

Overall, based on the preceding assessment of environmental effects it is considered that although there are non-compliances in terms of retail floor area, landscaping and parking, these matters are not considered significant and the associated effects can be absorbed within the site or would be unnoticeable to properties outside of the site. The site is already developed for retail use and this proposal simply seeks smaller individual tenancies within the existing building.

Although those non-compliances exist the proposal still more than adequately provides for future residents and there will be no foreseen adverse effects that could be considered significant.

The proposed activity will not appear out of keeping and will not detrimentally impact upon this particular setting.

5.7 Consideration of Alternatives

An assessment of effects has been completed and as stated above, no significant adverse effects are anticipated. The resultant effects of this proposal are therefore considered to be less than minor.

The size and scale of the proposed tenancy and necessary car parking areas are such that this development could not easily be accommodated within the (more central) Business A and Business B Zones, short of demolishing a significant number of buildings and creating a land area the equivalent of what is available at the site.

Accordingly, under Schedule 4 clause 1(b) of the Resource Management Act, there is no need for alternatives to be considered.

6.0 OBJECTIVES AND POLICIES

Objectives and policies are set out in the Plan. The relevant objectives and policies are contained within *Section 5: Business Zones 5.4 Objectives and Policies*, *Section 10: Transport Zones 10.3*, and *Section 13 Signs* of the Plan.

The relevant objectives and policies for the Business Area are:

Objective 5.1: Business Area Development and Effects

Growth, maintenance and consolidation of business areas, provided that adverse effects on the environment are avoided, remedied or mitigated.

Policies

Policy 5.1A

Maintaining and enhancing the function, integrity, convenience and viability of the inner commercial areas of Ashburton, Methven and Rakaia, and small villages.

Policy 5.1B

Ensuring that opportunities are available in the suburban areas of Ashburton for the establishment and on-going operation of business activities, providing retail and service activities to local neighbourhoods, in locations which are convenient.

The amendments to these policies have also been addressed earlier as part of section 5.2 – Assessment of Effects regarding Plan Change 4. What is analysed below is still considered relevant.

Policy 5.1C

Providing for the establishment of large format/big box retail activities that generate high volumes of traffic and require large areas of parking, in locations which do not detract from the amenity of adjoining areas, the safety and efficiency of the roading network, or from the consolidation of the inner retail area of central Ashburton.

Policy 5.1E

Avoiding an accumulation of activities which together would generate significant pedestrian activity on State Highway 1, in order to prevent pedestrian/vehicle conflicts and maintain safety.

There is no accumulation of pedestrian activities as a result of locating the development on the proposed site nor is there a cumulative type effect with this development catering for a smaller tenancy and being located in proximity to the nearby commercial building. The nature of retailing for this type of development is that a significant number of shoppers travel by vehicle to the site as opposed to walking to the site. The location of the proposed development in this part of

Ashburton will not significantly detract from the amenity of the adjoining area or the consolidation of the inner retail area of central Ashburton.

Although much smaller than the gross floor area associated with the former Bunnings Warehouse retail store, the three separate tenancies each cover approximately 1000m² and therefore exceed the maximum permitted coverage within this Business C Zone. At this scale, the proposed unit provides retail floor space that would not be suited to Ashburton's CBD area.

The businesses likely to locate here wish to be where they are easily accessible and there is a suitable supply of parking available.

Objective 5.2: Qualities of Business Areas

Business areas that are pleasant places to visit and work within.

Policy 5.2A

Maintaining and enhancing the existing form and character of retail areas in terms of building height, setback, coverage and where appropriate, the provision of display windows and verandas.

The proposal does not involve any notable scale or structural alterations to the exterior of the existing building. Although there are a number of landscaping and amenity non-compliances, the overall bulk and location will remain as at present. Accordingly, the development does not introduce any setback, height or overall coverage issues when compared to the existing situation.

While the division of the building will naturally result in changes to the building frontage, such amendments will not alter the existing fenestration or the architectural features currently experienced.

Accordingly, the works are not expected to compromise the quality of this Business C Zone. Rather, the proposal will enhance the area by providing opportunity outside of the town centre edge and improving retail opportunity.

As such, the development is not seen as threatening to the existing CBD environment.

Policy 5.2C

Ensuring noise levels within business areas enable the functioning of anticipated activities, whilst remaining pleasant places to visit and work within.

Considering the nature of this Business C Zone, and the activity that has been accepted within this location, the proposal will not lead to an excessive level of noise disturbance.

Although the proposed activities generate traffic noise, this is expected to comply with the criteria of the Operative District Plan Business zone noise levels on the basis the background or ambient noise being reasonable high due to the proximity to the State Highway.

The subject proposal is of such a scale and size, and is not a business that is deemed to detrimentally affect the function, integrity, convenience and viability of the more specialty shops and business within the inner commercial areas of Ashburton. There is little or no ability to create comparably scaled units within central Ashburton that will benefit from a similar provision of car parking.

Therefore, it is considered that there are no adverse effects on the amenity of adjoining areas.

The potential effects of traffic generation and safety, accessibility and car parking demand are also key components of this proposal. The relevant issues for transport contained within the Operative Plan are sustainability, efficiency, safety and accessibility and environmental effects.

The land transport objectives and policies in the Plan relevant to the assessment of this proposal are as follows:

Section 10 Transport -

Objective 10.1: Transport Sustainability

To maintain and enhance the sustainability of the District's transport system.

Policies

Policy 10.1A

To mitigate the adverse effects of vehicle and fossil fuel usage by reducing potential travel times to home, work, community and business places, primarily through encouraging infill, intensification within the core area of Ashburton, and consolidated development of the District's towns. Provision for some essential services within residential and commercial areas will also assist to reduce travel times and distances e.g. Business A zones within residential areas.

Policy 10.1E

To give effect to any relevant RMA national and regional policy statements, and take into account any other relevant national, regional and Ashburton District Policy in Council policy development and decision making.

The location, scale and convenience of the proposed tenancies can be said to be a more common development in today's modern domestic shopping environment.

These types of development are usually not within CBD areas because of the effects explained in this application and are located either in or on the fringe (or in larger metropolitan areas in Suburbs) of the inner business areas. This therefore positions it well for reduced travel times in terms of fossil fuel usage for vehicles and reduced travel times.

This proposal seeks to reestablish a retailing activity within the existing building. Although retail premises are generally associated with a high volume of traffic, the works will not represent an increase in traffic generation.

In this instance we have also noted the National Policy Statement on Urban Development, 2020. As stated within this document, the Government has given direction to all Councils that moving forward, car parking requirements should be significantly scaled back.

Objective 10.3: Transport Safety and Accessibility

The maintenance and improvement of the safety and ease of pedestrian and vehicle movement throughout the District.

Policies

Policy 10.3B

To preserve road safety and accessibility by ensuring that standards of road design, vehicle access, vehicle crossings, loading and parking are related to intended use of each site and the relationship to the adjoining road classification, and that visual distractions that may affect the safety of road users are avoided or mitigated e.g. lighting and advertising

The proposed access arrangement is designed to accommodate the traffic generation anticipated for a retail activity with a much greater gross floor area.

The location is such that the development will not detract from the amenity of adjoining areas and potentially could enhance it. Considering the absence of major site alterations, the proposal maintains the safety and efficiency of the surrounding road network.

7.0 PART II OF THE RESOURCE MANAGEMENT ACT

Part II of the Act contains Sections 5 – 8 and relates to the purpose and principles of the Act. It is considered that the proposal should be assessed against Sections 5 and 7.

7.1 Section 5

Section 5 outlines the purpose of the Act as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, “sustainable management” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while:*
 - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Section 5 of the Resource Management Act 1991 identifies the purpose of the Act as being the promotion of sustainable management of natural and physical resources. For the aforementioned reasons, it is considered that the proposed development achieves this purpose by avoiding, remedying or mitigating any adverse effects.

By re-establishing a retail activity, the site will continue to contribute towards the Town’s overall economic output. Additional employment, through both the construction phase and the proposed retailing will further support the health of Ashburton in the aftermath of the COVID-19 pandemic.

While traffic movements are expected to increase as a result of the proposal, it is not anticipated that a retail tenant of this scale will generate excessive pressure on either parking availability or the surrounding road network.

Although it will occupy a smaller floor area than the former Bunnings Warehouse, the travel efficiency, parking availability and edge of town location are all factors that would

benefit a furniture and appliance store. The spacious and easily navigated layout will result in few adverse effects in terms of traffic movements, safety, or site efficiency. The existing vehicle crossing is unobstructed and facilitates a functional access/egress arrangement.

The consumer-friendly nature of the proposal will preserve the functionality and safety of the site, while simultaneously improving consumer choice throughout Ashburton. A modernised refurbishment will ensure the longevity of the scheme and futureproof the land for future generations.

The positive aspects of the development from an economic, social and cultural perspective will outweigh any detrimental impact upon the Business Zones found elsewhere across the District. It will not compromise the surrounding environment or detrimentally effect the activities found within the vicinity of the application site. Accordingly, the proposal will achieve the purpose of Section 5 of the RMA

7.2 Section 7

Section 7 outlines other matters that need to be considered. Matters of relevance are:

- (c) *The maintenance and enhancement of amenity values;*
- (f) *Maintenance and enhancement of the quality of the environment;*

Section 7(c) and (f) of the Act are matters to which Consent Authorities should give particular regard to when making informed decisions. When assessing a non-complying land use consent application in the business zone, consideration may be given to the effects on amenity values and maintenance and enhancement of the quality of the environment as a result of the proposed activity.

The proposal is also considered to be consistent with these Part II matters in that the proposal will maintain the amenity and enhance it with the provision of an interesting, and more varied front façade without affecting the quality of the surrounding environment, this would improve the appearance of the site, in accordance with Section 7c and 7f. Given the above, it is considered that the proposal is in keeping with Part II of the Act.

8.0 SECTIONS 104 & 104D - CONSIDERATION OF APPLICATIONS

Section 104 sets out those matters that must be considered when assessing an application for a resource consent. Subject to Part 2 of the Act, Section 104(1) requires a consent authority to have regard to the following matters:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (b) *any relevant provisions of-*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*

Section 104D of the Resource Management Act is a test that must be applied to applications for non-complying activities. If an application cannot satisfy the requirements of Section 104D (1) (a) or (b), then consent must be refused.

The test for “non-complying” applications is

a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either –

- (a) *the adverse effects of the activity on the environment ... will be minor; or*
- (b) *the application is for an activity that will not be contrary to the objectives and policies of ... the relevant plan.*

The Council must be satisfied to require a positive finding that, in the authority’s view and on the evidence, the balance is tipped in favour of one or both of the specified conclusions.

Section 104(1)(b)(2) requires the consent authority to have regard to any relevant provisions of the District Plan or 104(1)(c) any other matter the consent authority to determine the application or Section 104(D)(1)(b)(i) the activity not being contrary to the objectives and policies of the District Plan.

Section 104D(1) (a) and (b) have been described by the Environment Court as “gateways”. If neither gateway is satisfied, the application fails. If the application satisfies either gateway then the application is to be considered under Section 104 of the RMA.

The gateways of section 104D(1)(a) and (b) are disjunctive, meaning that in order to satisfy Section 104D it is necessary to satisfy only one of those gateways, not both.

It is noted that even where one (or both) “gateway” tests are satisfied, the consent authority retains discretion to decline consent if it considers the proposal will not achieve the purpose of the act.

In conclusion, it is considered that the proposal passes the first gateway of Section 104D (1) in regards to potential effects on the environment and the second leg is tested against those relevant Business C Zone policies however a balanced judgement falls in favour of not being contrary with those policies.

9.0 NOTIFICATION –SECTIONS 95 AND 95A-F

Section 95A Public notification of consent applications

There is a four-step process under Section 95(A) to determine if public notification is required.

Step 1 - Does the application fall within the criteria for mandatory public notification under s95A (3)?

- The applicant has not requested public notification
- Public notification is not required under s95C
- The application has not made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

Step 2 - Does the application fall within the criteria where public notification is precluded under s95A (5)?

- The activity itself is for a non-complying activity.

Step 3 – Does the application fall within the criteria where public notification is required under s95 (8)?

- The application is not for an activity subject to a rule or national environment standard that requires public notification.
- the activity will not have or is not likely to have adverse effects on the environment that are more than minor.

Step 4 – Are there any special circumstances under s95A(9) which requires public notification?

- There are no special circumstances which require the application to be publicly notified.
- The application does not meet the criteria for public notification under the provisions of s.95A. Therefore, the application does not need to be publicly notified.

Section 95B Limited notification of consent applications

Step 1 – Are there certain affected groups and affected persons who must be notified under s95BA (2-3)?

- There are no affected customary rights groups or affected marine title groups in relation to this proposal.
- The proposed activity is not on or adjacent to, or affects land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11.

Step 2 - Does the application fall within the criteria where limited notification is precluded under s95B (6)?

- No. The application is not for an activity subject to a rule that precludes limited notification.
- The application is not for either or both the following activities, but for other activities:
 - The activity is not for a controlled activity,
 - The activity is not for a prescribed activity.

Step 3 – Does the application fall within the criteria for other affected persons to be notified under s95B (7-8) and s95E?

- The above assessment of environmental effects concludes the proposal will have less than minor adverse effects. Therefore, there are no persons who should be notified.

Step 4 – Are there any special circumstances under s95B (10) which requires limited notification?

- There are no special circumstances that would warrant the limited notification to any other persons not already deemed to be affected parties (excluding persons assessed under s95E as not being affected persons).

Based, on the above, and the preceding assessment of effects any adverse effects on the environment are less than minor and as such, no parties are considered to be adversely affected by the proposal. The proposal does not increase (in fact will be less) as a result of this one additional tenancy and any previous levels of traffic generation that may affect the State Highway (NZTA) network would not increase.

It is considered that the application need not be limited notified in accordance with Section 95B of the RMA.

Other than the landowners adjoining the site, there are no other affected persons under Section 95E. Although the proposal will introduce a non-complying activity when assessed against the Ashburton District Plan, it is considered that the impact is of low potential and will create less than minor effects. Accordingly, this application can be processed by non-notification.

10.0 CONCLUSION

This application seeks resource consent due to a non-compliance with the gross floor area for a retail activity within the Business C Zone. The proposal is therefore non-complying under the Operative District Plan. Plan Change 4 to the District Plan has been considered in terms of how this application relates to potential effects on the vitality of the Business A zone, Ashburton's CBD. There are also non-compliances with site standards in relating to amenity, landscaping and traffic related matters.

Section 104 of the Act sets out the matters to be considered when assessing an application for resource consent. These matters require consideration of any actual and potential effects on the environment arising from the proposal. The relevant objectives and policies of the Operative Ashburton District Plan were considered which Council must have regard to in its decision making and based on those relevant provisions the proposal is not considered inconsistent with those.

It has been demonstrated by the preceding assessment that the effects on the environment as a result of this proposal will have effects that are of a low impact. The relevant provisions of Part II of the Resource Management Act 1991 have been satisfied and it is considered that the proposed development is consistent with the purpose of the Act, promoting the sustainable management of natural and physical resources, with no more than minor environmental effects.

ANNEXURE A – FORM 9

Form 9: Application for Resource Consent
Under Section 88 of The Resource Management Act 1991

TO: The Ashburton District Council

Tricroft Properties Limited

applies for the resource consent described below.

1. **The names** of the owner and occupier (other than the applicant) of any land to which this application relates are as follows:

n/a

2. **The location** to which this application relates is:

363 West Street Ashburton, being Lots 1 and 2 DP 1563 and Lot 1 DP 23503.

3. **The type of resource consent** being sought is a Land Use Consent.

4. **A description of the activities** to which the application relates is:

The proposal is to divide the existing building into three separate tenancies and establish a retailing tenant within the middle unit. This retail activity will have gross floor area of approximately 1002m² and does not comply with site standards for amenity and landscaping, or car parking and transport matters as detailed within the application.

The proposed development will be in accordance with the plans accompanying this application and which should be read as part of it. A more detailed description of the proposed activity is to be found in the assessment of effects on the environment which accompanies this application which should also be read as part of this application.

5. **Attached is an assessment of any actual or potential effects** that the activity may have on the environment.

6. **No other information** is required to be supplied by the district or regional plans or regulations.



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DATED: 26th March 2021

(Signature of applicant or person authorised to sign on behalf)

Address for service:

David Harford Consulting Limited
PO Box 603

ASHBURTON 7740

Attention: David Harford

Telephone: (03) 307 7164

Facsimile: (03) 307 7165

Email: david@dhconsulting.co.nz

Address for Applicant

Tricroft Properties Ltd
C/O Kendall Spurgeon
2 Queens Drive
Ashburton

Telephone: 03 307 8888

Email: office@tricroft.co.nz

ANNEXURE B – RECORDS OF TITLE

ANNEXURE C - DEVELOPMENT PLANS

ANNEXURE D – LOCATION PLAN

ANNEXURE E – PLANNING MAP

ANNEXURE F – ENVIRONMENT CANTERBURY LLUR