

Resource Management Act 1991

Ashburton District Plan

Proposed Plan Change No. 10

Areas of Significant Nature Conservation Value

Section 32 Assessment

August 2009

TABLE OF CONTENTS

1.	INTRODUCTION.....	3
1.1	Background.....	3
1.2	The Purpose of this Proposed Plan Change.....	4
1.3	The Existing Situation	4
1.4	Scope of this Proposed Plan Change.....	5
2.	STATUTORY CONTEXT.....	5
2.1	The Statutory Process	5
3.	OPTIONS.....	6
3.1	Introduction	6
3.2	Retain Group 1 and 2 areas as existing	6
3.3	Leave to District Plan Review process.....	7
3.4	Site by site analysis.....	7
3.5	Transfer all areas to Group 1	8
3.6	Remove all Group 2 sites from the District Plan	8
3.7	Evaluation of Options	8
4.	PROCESS OF ASSESSING SITES.....	15
4.1	For sites on properties not involved in Tenure Review	15
4.2	For sites on properties involved in Tenure Review	16
4.3	Site assessment outcomes	16
4.4	Recommendations from site assessment	16
5.	CONSULTATION	17
6.	EXISTING PLANNING PROVISIONS OF RELEVANCE.....	17
6.1	The Canterbury Regional Policy Statement	17
6.2	The Ashburton District Plan	18
7.	STATUTORY EVALUATION OF RECOMMENDED OPTION.....	22
7.1	Evaluation of costs and benefits	22
7.2	Appropriateness of the proposed changes	22
7.3	Risk of acting or not acting.....	24
7.4	Evaluation against the Act.....	24
7.5	Changes to the District Plan.....	25

APPENDICES

- APPENDIX 1: Environment Court Decision 2000
- APPENDIX 2: Ashburton District Plan, Natural Environment Section, Policies
- APPENDIX 3: Flowchart of Assessment Process
- APPENDIX 4: Stakeholder Consultation
- APPENDIX 5: Landowner Consultation
- APPENDIX 6: Changes to District Plan text
- APPENDIX 7: Changes to Appendix A2
- APPENDIX 8: Changes to Planning Maps

1. INTRODUCTION

This report provides an assessment of the various options that Council has considered for managing the issues related to the identification and protection of areas of significant nature conservation value (ASCV's). This assessment is required under Section 32 of the Resource Management Act 1991. The report should be read in conjunction with the amendments contained in the proposed plan change and planning maps (see appendices attached).

1.1 Background

When the Ashburton District Plan was publicly notified on 25th March 1995, it identified areas of significant nature conservation value and rules controlling activities within those areas. Those areas were based on approximately 100 sites of natural significance identified by the Department of Conservation through national ecological surveys, although further assessment was undertaken by the Council. The areas represented sites displaying key criteria such as:

- Intactness or little modification by human activity;
- Rarity of species, habitat or community of species;
- Representativeness of vegetation types, habitats or ecological processes;
- Distinctiveness or special ecological characteristics; or
- A high degree of biological diversity or patterns.

The Council's decisions on submissions were released in 1997. It was decided that the areas should be divided into 3 groups. Group 1 contained areas that were agreed by all parties as having significant values; Group 2 contained areas where there was disagreement over whether sites contained significant nature conservation values and/or the boundaries of the site. Group 3 contained areas that were protected by other mechanisms such as QEII covenants. The provisions relating to ASCV's were appealed. The appeals sought to delete all or some sites, as well as to include additional areas and sought numerous changes to policies and rules.

The appeal parties were:

- The Royal Forest and Bird Protection Society of New Zealand
- The Minister of Conservation
- Federated Farmers of New Zealand
- Canterbury Regional Council
- Various Landowners.

Meetings were held between all parties every month for approximately a year to discuss the appeals. Agreement was reached on amendments to the policies, rules and implementation methods.

Within the Group 1 areas, a rule (7.6.5.1.13 a)) controls the volume and location of earthworks, areas of clearance of indigenous vegetation, exotic tree planting (except amenity tree planting), and the erection of buildings. For the Group 2 areas a rule (7.6.5.1.13 b)) was provided limiting the area of clearance of a number of species of indigenous vegetation. An additional rule (7.6.5.1.16) also applies generally to the clearance of indigenous vegetation in the District.

It was agreed that Council would give strong encouragement to the reassessment of each of the Group 2 areas by the landholders, the Council and other relevant parties, in order to reach an agreed decision as to the long-term future of each area.

The Council anticipated that this process would be completed within 5 years, after which time the Council would undertake to introduce a Change to the District Plan, which would determine whether each area, or parts of each area, would be transferred to Group 1 or no longer listed and identified in the District Plan. The results of the above reassessment process would be incorporated into the Plan Change or, where the process has not been completed or agreement cannot be reached, the Council would determine the status of the areas through the Plan Change procedure.

In September 1999, a joint memorandum of the parties was sent to the Environment Court setting out a compromise manner in which references might be determined by consent. The Court issued its decision on the memorandum in December 2000 (see Appendix 1). In summary, based on the agreements between the appeal parties contained in the memorandum, the Court made numerous additions and deletions to the policies, implementation methods, explanations and reasons, and site standards in Chapter 1 Natural Environment and Chapter 7.6 Rural Zones. In relation to this proposed Plan Change, the most significant addition was a site standard that controlled the removal of vegetation within Group 2 areas (7.6.5.1.13 b)). The Court deleted some sites from Group 1 and added them to Group 2. Group 4 was added to Appendix A.2 of the District Plan; being roadside sites identified on the Plains, but with no rules applying to these areas.

The question of whether Group 2 sites should be transferred to Group 1 and be subject to greater protection was parked so that the Plan could be made operative in 2001. However, the Council is bound by statutory obligations and the Environment Court decision in 2000 to continue to identify significant nature conservation values within the Group 2 sites and control activities that may affect those values. The process has been guided by the policies in the District Plan (see Appendix 2) that set out the matters to consider when assessing Group 2 sites, and whether they should be included in the District Plan.

1.2 The Purpose of this Proposed Plan Change

The purpose of this proposed Plan Change is to amend the District Plan to appropriately reflect the process that has been undertaken to review the Group 2 ASCV areas, in order to avoid significant adverse effects and remedy or mitigate other adverse effects on the ecological integrity and functioning, habitat values and natural character of areas of significant nature conservation value, in accordance with Policy 4 (3.1.3.2) of the District Plan.

1.3 The Existing Situation

Appendix A.2 of the District Plan contains a list of Group 1 areas and a list of Group 2 areas. Group 1 areas are those which have been identified as containing significant nature conservation values. Within these areas Rule 7.6.5.1.13 a) controls earthworks, the erection of buildings, exotic tree planting, and vegetation clearance. Group 2 areas are those which may potentially contain important conservation values but require further assessment. In these areas, Rule 7.6.5.1.13 b) controls the area of vegetation clearance that can occur within any period of 5 years. The District Planning maps

identify both the Group 1 and the Group 2 areas. In addition the general indigenous vegetation clearance rule 7.6.5.1.16 applies across the District.

1.4 Scope of this Proposed Plan Change

The scope of this proposed Plan Change is limited to consideration of Group 2 ASCV sites only, by:

- transferring those sites in Group 2, which have been assessed as having significant nature conservation values, into Group 1.
- removing from the District Plan those sites in Group 2, which have been assessed as not having significant nature conservation values.
- amending site boundaries to adjust areas of Group 2 sites to be included in Group 1 sites.
- updating the Implementation Methods and Explanations and Reasons for Objective 3.1.3 to reflect the proposed plan change and the process that has been undertaken to date.
- updating Rule 7.6.5.1.13 to reflect exclusions to the rules applying in the Group 1 areas.
- updating the lists of areas in Group 1 and Group 2 contained in Appendix A.2 of the District Plan to show sites transferred to Group 1 and those to be removed from the District Plan.
- updating the Planning maps to identify Group 2 areas that have been transferred to Group 1; Group 2 areas that have been removed and additional areas to be included in Group 1 sites as a result of boundary adjustments.

The Plan Change does not include any changes to existing Group 1 sites, and neither is it intended to address wider issues such as the character of landscapes and visual amenity. It is strictly related to the matter of nature conservation values relating to some existing Group 2 sites. Landscape character and values, along with any other possible areas of nature conservation value, will be considered during the review of the Ashburton District Plan which is currently underway.

This Plan Change does not deal with all existing Group 2 areas (see discussion in section 4) with remaining areas to be addressed through either the District Plan Review or subsequent Plan Changes.

2. STATUTORY CONTEXT

2.1 The Statutory Process

Section 32 of the Resource Management Act 1991 (RMA) requires that before a variation or plan change is publicly notified, an evaluation of the variation/plan change must be carried out.

Section 32 states:

"... (3) An evaluation must examine -

(a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and

(b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

[[*(3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.*]]

(4) For the purposes of this examination [[the examinations referred to in subsections (3) and (3A)], an evaluation must take into account -

(a) the benefits and costs of policies, rules, or other methods; and

(b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods."

The Council must prepare a report summarising the evaluation and giving reasons for that evaluation. The report must be available for public inspection at the same time as the Plan Change is publicly notified or the regulation is made.

Section 32 requires that an evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of this Act, which is to promote the sustainable management of natural and physical resources. Then further consideration must be given to whether, having had regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

This evaluation must also take into account whether there is a risk in acting, or not acting, if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

Efficiency

An evaluation of efficiency must take into account the benefits and costs of the proposed policies, rules and other methods.

Effectiveness

'Effectiveness' means how successful a particular option is in addressing the issues and in terms of achieving the desired environmental outcome. It is also a measure of how successful the policies, rules and other methods would be in achieving the objective.

3. OPTIONS

3.1 Introduction

This section provides an analysis and evaluation of the options to address the identification and protection of sites of significant nature conservation value that have been considered by Council. The options are:

- *Status quo: Retain Group 1 and Group 2 areas as existing*
- *Status quo: Leave to District Plan Review process*
- *Site by site analysis*
- *Transfer all areas to Group 1*
- *Remove all Group 2 areas from the District Plan.*

3.2 Retain Group 1 and 2 areas as existing

The Council considered retaining two levels of significant areas: those that have been assessed as being significant in terms of nature conservation and those that potentially

contain significant values but require further investigation. However, the Council questioned whether such an approach would appropriately enable Council to fulfil its functions under section 6 of the RMA which require the Council to recognise and provide for *'the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna'* and under section 7, require the Council to have particular regard to the *'intrinsic value of ecosystems'*. The Council also is required under section 31 to control any actual or potential effects of the use, development, or protection of land, including for the purpose of *the maintenance of indigenous biological diversity*.

Council is not only bound by statutory obligations to provide for the protection of indigenous vegetation but also obligations within the District Plan. Policies 3 and 4 require the identification of areas with significant nature conservation values and the management of adverse effects impacting on those areas.

The Plan states that Council will identify significant values within Group 2 sites and undertake a Plan Change to transfer sites to Group 1 or remove them from the Plan. This is considered to be important as those Group 2 areas that do not have significant values should not be identified in the Plan or unnecessarily controlled by the rules.

This option would not assist in continuing the process to identify areas of value and areas that do not require District Plan controls, nor would it recognise the significant work undertaken by Council and landowners over the last 5 years to make progress and reduce uncertainty for all parties.

3.3 Leave to District Plan Review process

The Council considered whether transferring Group 2 sites to Group 1 should occur as part of the District Plan review process which is currently underway. However, in terms of timing, the process of considering if ASCV's should transfer from Group 2 to Group 1 would have been delayed awaiting the notification of the proposed District Plan. In addition, the Council will have to determine what to include in the proposed District Plan when publicly notified as there are a range of ways this could be approached (for example retain Group 1 and Group 2, only apply Group 1 sites, undertake site by site assessment, etc). The Council will need to consider the most appropriate manner of undertaking this work as part of the review. The Council considered that this option would introduce unnecessary delays and continue the current uncertainty surrounding the Group 2 sites, rather than making progress to resolve these matters.

3.4 Site by site analysis

This approach would involve visiting each Group 2 site and undertaking a detailed investigation of its significance in terms of significant nature conservation values. A report would be prepared and recommendations made as to whether the site should be included in Group 1 (either as presently shown or with boundaries adjusted) or be removed from the Plan. As part of this process consultation with the landowner would be undertaken regarding the future of the site and its management with a view to obtaining agreement to transfers to Group 1.

The Council considered that this option provided for detailed investigation of sites in terms of the criteria of Policy 3 (including intactness, rarity, representativeness, distinctiveness/special ecological characteristics, or diversity etc), so that they can be considered as to the significance of their values, allowing the Council to meet its obligations under sections 6, 7 and 31 of the RMA. It is also a proactive approach that does not rely on the submission process to address issues and concerns but provides for

direct consultation with landowners. This approach is consistent with the policy direction in the District Plan and commitments made to landowners and stakeholders at the time of the Environment Court decision.

This is the preferred option.

3.5 Transfer all areas to Group 1

This option would involve transferring all Group 2 sites to Group 1 with no further assessment of their values, by way of either a Plan Change or through the District Plan review. This approach would rely on previous work that has already been undertaken by DOC but with no further input from Council. The Council considered that this approach may mean that sites that do not have significant nature conservation values are included in Group 1, and unless such sites are raised during the submission process, they may not be removed. Thus sites with no known value would be subject to rules and consent would be required to undertake many activities. This was the situation in the proposed District Plan and is not consistent with the agreed approach as expressed in the operative District Plan.

3.6 Remove all Group 2 sites from the District Plan

Council could choose to remove all Group 2 sites from the District Plan and retain only the current list of Group 1 sites, by way of either a Plan Change or through the District Plan review. It would mean that some sites of potential conservation value would only be subject to general vegetation clearance rules and standards applying to the rural areas. The Council considered that this option would not enable it to meet its statutory functions under the RMA sections 6, 7 and 31.

3.7 Evaluation of Options

The following table sets out an evaluation of these five options, considering their costs and benefits, efficiency and effectiveness:

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
<p>1. Status quo: do nothing</p>	<p>Council: No costs in terms of site investigations, consultation and preparing and implementing a plan change.</p> <p>Landowners: Less stringent rules applied to Group 2 sites may mean that resource consent is not required for some activities, resulting in less costs.</p>	<p>Community: Less stringent rules applied to activities on Group 2 sites means that some activities with potentially significant adverse effects on nature conservation values can take place without resource consent being required.</p> <p>Landowners: Some Group 2 areas may unnecessarily subject to rules.</p> <p>Community: Retaining separate rules for Group 1 and Group 2 sites provides less clarity in planning provisions, leading to confusion in understanding and application of the rules.</p> <p>Community: Remaining uncertainty in terms of future status of Group 2 areas.</p>	<p>Retaining separate rules for Group 1 and Group 2 sites provides less clarity in planning provisions, which is not efficient.</p> <p>Costs are considered to outweigh the benefits.</p>	<p>The option does not comply with the Implementation Methods in Section 3.1 Natural Environment, or Council's statutory and District Plan obligations and there would not be effective achievement of the Plan's objectives.</p> <p>This option does not effectively meet the purpose of the Plan Change.</p>	<p>Not recommended</p>
<p>2. Leave to the District Plan Review process</p>	<p>Council: No immediate costs in terms of site investigation, consultation,</p>	<p>Stakeholders/Landowners: Uncertainty for stakeholders and</p>	<p>This option is inefficient as it delays the ability to consider areas of</p>	<p>This option would not be effective in providing appropriate controls on</p>	<p>Not recommended</p>

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
	<p>or preparing and implementing a plan change.</p>	<p>landowners as outcomes of site investigations and consultation may be diluted or changed through being considered as part of the wider District Plan review.</p> <p>Community: This option may lead to activities on sites not containing significant nature conservation values being controlled as no further investigation of sites would be undertaken until the District Plan review.</p> <p>Landowners: Costs to landowners in terms of obtaining consents for activities on sites that may not contain significant nature conservation values until resolved through the District Plan review.</p> <p>Council: Costs incurred in terms of processing resource consents until resolved through the District Plan review.</p>	<p>significant nature conservation value and would delay resolution of matters agreed in previous consultation and with landowners.</p> <p>Costs are considered to outweigh the benefits.</p>	<p>activities that may adversely affect significant nature conservation values, as well as continuing to control activities on some sites that may not contain such values.</p> <p>This option does not effectively meet the purpose of the Plan Change.</p>	

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
<p>3. Site by site analysis</p>	<p>Stakeholders/Landowners: Consultation as part of the Plan Change process may lead to greater understanding and acceptance of the process and its outcomes.</p> <p>Landowners: Agreement reached with majority of landowners as to site boundaries and management techniques.</p> <p>Community: Activities within Group 2 areas that do not have significant values would no longer require resource consent under ASCV rules.</p> <p>Community: Resolves uncertainty for most Group 2 sites and advances the process of assessment.</p> <p>Community: Each site is assessed and significant nature conservation values are properly identified and are defensible.</p> <p>Council: Appropriate statutory provisions are</p>	<p>Council: Lengthy and costly process in terms of site investigation and consultation.</p> <p>Stakeholders/Landowners: Resource consent may be required to undertake activities within some sites, with associated costs to landowners</p> <p>Council: Additional costs may be incurred in terms of processing resource consents for areas transferred to Group 1.</p>	<p>This option provides for the ability to reconcile the boundaries of land transferred to DOC with Group 2 site boundaries and reduce the number of site investigations.</p> <p>The plan provisions provide clear guidance on what types of activities can be undertaken within Group 1 sites making it easy to understand and administer. Also if it is clear that activities in these areas are to be controlled, it may reduce the number of consents to carry out activities such as earthworks; reducing costs to landowners and Council.</p> <p>Benefits are considered to outweigh the costs.</p>	<p>Provides controls in relation to areas identified as having significant nature conservation values.</p> <p>This option is considered to effectively meet the purpose of the Plan Change.</p>	<p>Recommended</p>

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
	<p>met and adequate rules and site boundaries are provided in the District Plan.</p> <p>Council: Changes to the Plan are enforceable and understandable.</p>				
<p>4. Transfer all areas to Group 1</p>	<p>Council: No costs in terms of site investigations or consultation.</p> <p>Council: The process would not require waiting until properties finished tenure review.</p> <p>Community: Only providing for one group of sites and set of rules may make the District Plan easier to understand and administer.</p>	<p>Council: Costs in preparing and implementing a plan change or as part of the review.</p> <p>Community: Significant values of Group 2 sites are not investigated and therefore some sites would be included in Group 1 that do not contain significant nature conservation values.</p> <p>Stakeholders/Landowners: Uncertainty for stakeholders and landowners as outcomes of site investigations and consultation may be diluted or changed through the notification and submission process.</p> <p>Stakeholders/Landowners: Costs to landowners in</p>	<p>Landowners and stakeholders can only continue to be involved through the submission process and this may undermine previous consultation and agreements reached with landowners.</p> <p>Costs are considered to outweigh the benefits.</p>	<p>This option would provide controls over activities that may adversely affect significant nature conservation values, as well as controlling activities in relation to some sites that may not contain such values and thus does not differentiate appropriately between sites.</p> <p>This option does not effectively meet the purpose of the Plan Change.</p>	<p>Not recommended</p>

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
		<p>terms of obtaining consents for activities on sites that may not contain significant nature conservation values.</p> <p>Council: Costs incurred in terms of processing resource consents for activities on sites that may not contain significant nature conservation values.</p> <p>All parties: Provisions are likely to be appealed and be resolved through mediation or an Environment Court decision, which is costly to all parties, may take many years and the decision-making process is taken out of Council's hands.</p>			
<p>5. Remove all Group 2 sites from the District Plan</p>	<p>Council: No costs in terms site investigations or consultation.</p> <p>Landowners: Less stringent rules (general indigenous vegetation clearance rules only) would be applied to former Group 2 sites and</p>	<p>Council: Costs in preparing and implementing a plan change or as part of the review.</p> <p>Community: General indigenous rules would apply to all Group 2 sites removed from the Plan but</p>	<p>This process would not properly consider areas where control is merited.</p> <p>Costs are considered to outweigh the benefits.</p>	<p>Provides controls in relation to indigenous vegetation clearance but at a general level with no specific consideration for areas in Group 2 that have significant nature conservation values.</p>	<p>Not recommended</p>

Option	Benefits/Advantages	Costs/Disadvantages	Efficiency	Effectiveness	Recommendation
	<p>this may mean that resource consent is not required for some activities, resulting in less cost to landowners and Council.</p> <p>Community: The District Plan may be easier to administer and understand with one group of sites to which one set of rules is applied.</p>	<p>these may not be sufficient to control activities that may adversely affect significant nature conservation values.</p> <p>Stakeholders/Landowners: Uncertainty for stakeholders as outcomes of site investigations and consultation would not be utilised.</p> <p>Stakeholders/Landowners: Resource consents to undertake works may highlight significant nature conservation values and Council may require a site investigation to be undertaken.</p> <p>All parties: May create a need for ad hoc site investigations as part of resource consents which will be a cost both to the landowners and Council.</p>		<p>This option does not effectively meet the purpose of the Plan Change.</p>	

4. PROCESS OF ASSESSING SITES

Having determined that the preferred option is “site by site analysis”, the first step was to undertake ecological assessments of each area. The process for assessing the Group 2 ASCV sites was undertaken primarily by Boffa Miskell ecologists, working in consultation with landowners and keeping other stakeholders informed. The purpose of this ecological assessment was to determine:

- Whether any values of significance were apparent;
- Where the values are located – leading to boundary refinement; and
- To document the findings of the assessment.

The areas identified as Group 2 often cross property boundaries. Therefore for the purposes of landowner consultation and ecological visits, some ASCV sites were divided to recognise where they crossed property boundaries.

The Council determined that there should be two distinct processes depending upon whether sites are located on properties involved in Tenure Review or not. A flowchart outlining the processes followed is attached as Appendix 3.

4.1 For sites on properties not involved in Tenure Review

Landowners were contacted in order to seek permission for site visits by an ecologist on behalf of the Council. Site visits were not considered necessary for sites on Department of Conservation (DOC) administered land as an agreement has been reached with DOC to automatically include these sites into Group 1.

If permission was granted for a site visit, an ecologist visited the site and applied the ecological criteria outlined in Policy 3 of the District Plan (see Appendix 2) to determine if the site was significant in terms of nature conservation value. Due to the large size and difficult access of some ASCVs, it was not possible to visit all areas. Where visits were not possible, assessments utilised supporting information, aerial imagery and views from nearby vantage points. Assessments were summarised in written reports, which outlined the evaluation of the criteria in Policy 3 of the District Plan and any proposed boundary changes or deletions. Following this, the landowner was consulted on the future treatment of the site.

Where permission for a site visit by an ecologist was not given, the site has not been assessed against the Policy 3 criteria. Therefore these sites cannot be included in this Plan Change due to the current lack of information.

If the site was deemed significant using the criteria in Policy 3 of the District Plan then the boundary of the site was determined according to the area in which the values are located and in consultation with the landowner and other relevant parties. The site was then recommended to transfer into Group 1 site under a Plan Change process.

If the site, or part of the site, was deemed not to contain significant nature conservation values the site was recommended to be deleted from the District Plan through a Plan Change process. However, restrictions on general indigenous vegetation clearance would still apply as they do to all indigenous vegetation in the rural zones.

4.2 For sites on properties involved in Tenure Review

The Council intended that these sites would only be dealt with following the completion of the Tenure Review process to avoid double up of processes. This included freehold land that is contiguous with properties undergoing Tenure Review and owned by the leaseholder involved with the Tenure Review.

After Tenure Review had been completed on any property, the Tenure Review designations were investigated to identify the degree to which the Group 2 sites had been included within land to be administered by DOC.

If sites were included entirely within (DOC) administered land then they were dealt with in the same way as other sites currently within DOC administered land i.e. they are automatically to be transferred to Group 1.

If Group 2 sites had not been included in the DOC administered land through the Tenure review process, either wholly or partially, then DOC was contacted and asked if they were able to inform the Council why the land had been excluded. In all cases considered in this Plan Change it was clear from the DOC process and information held that the sites, or parts of sites, that were excluded from DOC administered land did not meet the criteria for significance in terms of the assessment criteria (outlined in Policy 3 of the District Plan), and thus these sites, or parts of sites, were recommended to be deleted from the District Plan through this Plan Change process.

Sites on properties that have not completed tenure review have not been included as part of this plan change. Neither has one property which has completed tenure review but also contained some freehold land which has not yet been visited by an ecologist.

4.3 Site assessment outcomes

For each site assessed a report or memorandum was prepared setting out the values identified and the areas in which the values are located. These reports document each assessed Group 2 ASCV and provide the ecological information to support their recommended listing within the District Plan and their transfer (or otherwise) to Group 1 status.

4.4 Recommendations from site assessment

Following the completion of site assessments, the Council has made decisions according to the provisions of Policy 5. Policy 5 sets out the matters to which Council shall have regard when considering whether to list some Group 2 sites as Group 1 (according to the ecological recommendations) and whether to apply the Group 1 rule to those sites.

In particular the Council considered that the agreements reached with the landowners took into account economic effects, resources to implement protection, compatibility of land uses, and the range of mechanisms available. The research carried out by the ecologists considered the modification of the site, protection of values, restoration potential, long term ecological viability and the presence and level of animal pests and weeds.

Based on this consideration, the Council has decided to put forward all the ecological recommendations as part of this proposed Plan Change.

5. CONSULTATION

Extensive consultation has been undertaken with stakeholders and landowners over a period of 7 years. There have been numerous 'informal' meetings with landowners that have occurred during site visits, as well as meetings with stakeholders. The Council has endeavoured to keep all parties informed of progress and involved in the process of identifying and managing sites of significant nature conservation value.

Documentation of consultation with non-landowner stakeholders is included in Appendix 4 as well as information on landowner consultation in Appendix 5. This documentation includes details of the process.

The non-owner stakeholders involved (some of which are appeal parties) are: the Department of Conservation, the Royal Forest and Bird Protection Society of New Zealand, Federated Farmers of New Zealand, Canterbury Regional Council, Te Runanga o Arowhenua, and Central South Island Fish and Game Council.

The landowners and their properties are identified in the table below:

LANDOWNER	PROPERTY
Mr A Harmer	
Mr B & Mrs S Gallagher	
Mr C Drummond	Erewhon
Mr D Wightman	Winterslow
Mr J Harmer and Tekapo Investment Ltd	
Mr J Chapman and Chapman Family Trust	Inverary
Ms L McIvor	
Mr M Harmer	
Mr P Harmer	Castleridge Station
Mr P Todhunter	Upper Lake Heron
Mr S Mander	
Mr T Hart	
Lobblinn Farms Ltd	
Digby's	
Department of Conservation (DOC)	Land already managed by DOC and land transferred through Tenure Review to DOC: Double Hill; Glenariffe; Hakatere; Strathallan Farm Ltd; Tenahaun and Mt Potts.

6. EXISTING PLANNING PROVISIONS OF RELEVANCE

Section 75 of the RMA specifies that the proposed plan change must give effect to any Regional Policy Statement or Regional Plan. The following section identifies the relevant sections of the Canterbury Regional Policy Statement and the Ashburton District Plan and evaluates the relevance and conformity of the Proposed Plan Change with those provisions.

6.1 The Canterbury Regional Policy Statement

The Canterbury Regional Policy Statement (RPS) is of relevance to this Proposed Plan Change. The objective and policy of that document that are of particular relevance to this proposed plan change are detailed below:

Landscape, Ecology and Heritage 8.2 Objective 3

Protection or enhancement of:

- (i) Indigenous biodiversity, (including the survival of threatened species, communities and habitats, and species, biological communities and habitats unusual in, or characteristic of Canterbury);*
- (ii) Indigenous ecosystem functioning; and*
- (iii) Indigenous vegetation and habitats which contribute to the region's natural character.*

Landscape, Ecology and Heritage 8.2 Policy 4

Areas of indigenous vegetation and habitats of indigenous fauna that meet the relevant criteria of sub-chapter 20.4(1) should be protected from adverse effects of the use, development, or protection of natural and physical resources and their enhancement should be promoted. In particular, indigenous species, communities and habitats that are threatened, unusual in, or characteristic of Canterbury should be identified, and their survival, and the survival of ecosystems on which they depend, safeguarded as far as practicable.

The particular sensitivity of these areas of vegetation or habitats to regionally significant adverse effects in terms of sub-chapter 20.4(2) should be reflected in the provisions of district plans in the region.

Objective 3 and Policy 4 seek to recognise the value to the Canterbury region of its indigenous biodiversity, ecosystem functioning, and vegetation and habitats. Areas of indigenous vegetation and habitats of indigenous fauna should be protected from adverse effects. The explanation and reasons for Policy 4 states that it is important that indigenous ecosystem functioning is protected, and that no further indigenous species become threatened as a result of human activities so that an abundance and distribution is maintained or enhanced.

The proposed Plan Change relates directly to Objective 3 and Policy 4 of the RPS, to protect or enhance areas of indigenous vegetation and habitats and avoid adverse effects of the use and development of natural resources on identified areas. The reports prepared for this Plan Change for many of the Group 2 ASCV sites identify indigenous species that are threatened or characteristic of Canterbury, as well as identifying indigenous fauna that are required to be protected under this policy.

The proposed Plan Change would therefore not only be consistent with but would also give effect to this objective and policy contained within the RPS.

6.2 The Ashburton District Plan

The relevant objective and policies of Ashburton District Plan are:

Section 3.1 Nature Conservation Values 3.1.3 Objectives and Policies

3.1.3.1 Nature Conservation Values – Objectives 1-4

- 1. The protection of indigenous biodiversity and ecosystem functioning and the maintenance of indigenous vegetation, communities, and habitats generally within the District.*

3.1.3.2 Policies

General

3. To use the following primary criteria to identify areas with significant nature conservation values:

- *Intactness* – The area is little modified by human activity, comprises a predominantly intact indigenous system and is not affected in a major way by weed or pest species.
- *Rarity* – The area supports an indigenous species, habitat or community of species, which is rare and vulnerable within the ecological district or threatened nationally.
- *Representatives* – The best examples of particular vegetation types, habitats or ecological processes which are typical of their ecological district.
- *Distinctiveness / Special Ecological Characteristics* – The type and range of unusual features of the area itself and the role of the area in relationship to other areas locally, regionally or nationally, including:-
 - presence of species at their distribution limit;
 - levels of endemism;
 - supporting protected indigenous fauna for some part of their life-cycle (e.g. breeding, feeding, moulting, roosting), whether on a regular or infrequent basis;
 - playing an important role in the life-cycle of protected migratory indigenous fauna;
 - containing an intact sequence, or a substantial part of an intact sequence, of unusual ecological features or gradients.
- *Diversity and pattern* – areas exhibiting a high degree of biological diversity in terms of:
 - vegetation;
 - habitat types;
 - species;
 - ecological processes.

To have regard to the following secondary criteria to assist in identifying areas with significant conservation values:

- *Scientific Value* – The area is a type locality or other recognised scientific reference area;
 - *Connectivity* – The extent to which the area has ecological value due to its location and functioning in relation to its surroundings. An area may be ecologically significant because of its connections to a neighbouring area, or as part of a network of areas of fauna habitat, or as a buffer;
 - *Size and shape* – The degree to which the size and shape of an area is conducive to it being, or becoming, ecologically self-sustaining.
4. To avoid significant adverse effects and remedy or mitigate other adverse effects on the ecological integrity and functioning, habitat values and natural character of areas of significant nature conservation value, recognised in terms of Policy 3.

5. *In considering:-*

- *whether to list in the District Plan those areas identified as having significant nature conservation value under Policy 3;*
- *whether to apply rules through the District Plan to avoid, remedy or mitigate adverse effects on the values of those areas identified as having significant nature conservation value under Policy 3, and*
- *resource consent applications where the Council has discretion to consider the effects of activities on nature conservation values,*

The Council shall have regard to:

- *the economic effects on the landholder(if these are relevant under section 7(b) of the Act);*
- *the resources required to implement protection;*
- *the compatibility of the existing land use with the values identified;*
- *the degree of modification of the site;*
- *the extent to which the vegetation type, habitat or ecological process is already protected elsewhere;*
- *the restoration potential of the site;*
- *the long term ecological viability of the site;*
- *the presence and level of animal pests and weeds;*
- *the range of alternative protection mechanisms available and their relative costs and benefits;*
- *in the case of resource consent applications, the assessment matters contained in*
- *Section 7 Resource Consents – Assessments Matters 7.9.2.29.*

The objective and policies seek to protect indigenous biodiversity and ecosystem functioning and maintain indigenous vegetation, communities, and habitats generally within the District. Areas that display significant nature conservation values will be identified through the criteria set out in Policy 3. Adverse effects on identified areas are to be avoided, remedied or mitigated in accordance with Policy 4. The consideration of whether these sites should be listed in the District Plan and whether to apply rules to sites is covered by Policy 5.

The proposed Plan Change gives effect to the above objective and policies as it seeks to clearly identify which of the Group 2 ASCV's meet the criteria set out in Policy 3. Once identified, these sites need to be protected from activities that may adversely affect their significant nature conservation values. The Plan Change then considers whether to provide the necessary protection through listing of areas and application of rules.

Consideration of transfers of some sites from Group 2 to Group 1 (continued listing in the Plan and application of rules) is supported by the ecological assessments undertaken and by the agreements reached with landowners is supported. Where agreements could not be reached, the Council has relied on the expert advice given in the ecological assessment process to determine which areas should transfer and which should be removed from the District Plan. Other matters such as economic effects on landowners have been considered through consultation with landowners.

It is therefore proposed in this Plan Change to transfer many Group 2 sites to Group 1 and provide for the protection of their significant nature conservation values through rules that control exotic tree planting, vegetation clearance, earthworks and the erection of buildings.

Overall, it is considered that this proposed Plan Change meets the intent of this objective and policies.

Plant and Animal Communities

14. *To maintain and, if possible, enhance the survival and well-being of viable communities of indigenous plants and/or animals that are significant within the District, Region, or nationally, or to Takata Whenua by:*

- *avoiding, remedying or mitigating any adverse effects of activities on these sites, including adverse effects of vegetation clearance, buildings, planting of exotic trees and earthworks.*

15. *To encourage the retention and protection of remaining areas of indigenous vegetation.*

The proposed Plan Change will give effect to Policies 14 and 15 that seek to maintain and protect indigenous vegetation from adverse effects caused by activities such as buildings, earthworks and vegetation clearance. The transfer of some sites from Group 2 to Group 1 means that they will be subject to more rigorous rules regarding vegetation clearance, earthworks and buildings, than if they remained in Group 2 or were not listed as ASCV's. This would therefore provide the opportunity for adverse effects on indigenous vegetation and its associated biodiversity and amenity values to be avoided, remedied or mitigated.

5.1 Rural areas 5.1.3 Objectives and Policies

5.1.3.9 Sustaining the Life-supporting Capacity of the Soils of the High Country – Objective 3

Rural High Country land uses that are managed in such a way as to sustain or enhance ecosystem functioning, the life supporting capacity of soil, and the significant nature conservation values of the High Country.

5.1.3.10 Policies

2. *To avoid, remedy or mitigate adverse effects on overall ecosystem functioning, natural character and habitat values of the High Country.*

The objective and policy seeks to ensure that activities are carefully managed to sustain or enhance the significant nature conservation values of the High Country. Such activities may include earthworks, clearance of vegetation and erection of buildings, and these are controlled through rules in the District Plan. By transferring some Group 2 sites to Group 1 they are subject to more stringent rules and which provide the opportunity to avoid, remedy or mitigate adverse effects on ecosystem functioning. It is therefore considered that the proposed Plan Change gives effect to and is consistent with this objective and policy.

7. STATUTORY EVALUATION OF RECOMMENDED OPTION

7.1 Evaluation of costs and benefits

The table set out in section 3 of this report has shown that using a costs and benefits analysis the most effective and efficient option is the site by site analysis, as discussed in more detail below. This is the only option that is considered to have benefits outweighing costs for the Council, landowners, stakeholders, and the wider community.

This recommended option has important benefits because it provides for a robust process of identifying significant nature conservation values as prescribed through the policies in the District Plan. Each site is investigated and an ecological report produced, so that the actual significant nature conservation values of each site are known. Without further site investigations, it would be difficult to determine which remaining Group 2 sites (or parts of sites) should be included in Group 1 or be removed from the Plan. This also means that only sites that do contain significant values are protected, thereby preventing the need for resource consent for activities such as earthworks when none is actually necessary, which would be a cost to both the landowner and the Council.

As this process has assessed each site and identified the values that are contained within sites transferring to Group 1, if resource consent is sought for an activity within that site the values will have been clearly established. This is expected to reduce the need for ad hoc site assessments in these circumstances which would otherwise impose additional costs on landowners and Council.

The site by site analysis is also a consultative approach. Consultation with landowners has led to agreement with Council on site boundaries for the majority of sites, prior to the initiation of this Plan Change. It is hoped that this consultative approach will lead to fewer submissions on the Plan Change and satisfactory outcomes for most parties.

However, there are disadvantages with the site by site analysis option as the consultative approach has meant long timeframes to find resolutions and gain agreement on site boundaries, which is a cost to the Council. Furthermore, the imposition of more stringent rules on Group 1 sites may reduce a landowner's ability to undertake certain activities or require them to obtain consent, which is a cost to the landowner and Council. However, in counterbalance it is considered that the process of identifying significant values and the imposition of rules on certain activities is consistent with the relevant objectives and policies of the RPS and the District Plan.

Overall, site by site analysis is considered to be the most effective and efficient option, despite the length of the process, as it is inclusive, consultative and robust. It will identify areas of significant indigenous vegetation and provide for the avoidance, remedying or mitigation of potentially adverse effects of activities to be considered through the resource consent process.

7.2 Appropriateness of the proposed changes

The Council is also satisfied that the proposed plan change is an appropriate way to achieve the Nature Conservation Values Objective of the District Plan. The identification of significant values and the transfer of Group 2 sites to Group 1 will mean that they are subject to more stringent rules, which is consistent with the Objective:

*'The protection of indigenous biodiversity and ecosystem functioning and the maintenance of indigenous vegetation, communities, and habitats generally within the District'*¹

No changes are proposed to the objective in the Plan as it is deemed the most appropriate means to achieve the purpose of the Act in relation to areas of significant nature conservation value.

Policy 3 of the District Plan sets out criteria to identify significant nature conservation values, which each site investigation has used. Therefore the site by site analysis gives effect to this policy in the District Plan. Once significant values have been identified, Group 2 sites can be considered under the provisions of Policy 5 to make decisions on whether to list the sites as Group 1 and whether to apply rules to them. No changes are proposed to the policies and overall, the existing policies are considered appropriate to meet the objectives of the District Plan.

The Implementation Methods relating to the Natural Environments Policies have been updated, rather than fundamentally changed, to reflect the proposed plan change and the on-going work of identifying significant nature conservation values on Group 2 sites. These amendments remove the references to the intention to carry out a Plan Change process, as this is what is currently occurring, and insert reference to the process for evaluation of sites. This is considered both appropriate and necessary to accurately reflect this Plan Change process and to link appropriately with the policies.

Likewise, the Explanation and Reasons relating to the Natural Environments Policies has been updated to recognise the process carried out and the intention for future plan changes.

The existing rules in the Rural Section of the District Plan control activities within Group 1 sites, such as the erection of buildings, clearance of vegetation and earthworks; this ensures that activities which may affect the significance and value of sites are assessed through the consent process. No fundamental changes are proposed to these rules as they are considered to meet the objective by protecting indigenous biodiversity and ecosystems through the protection of indigenous vegetation.

However, to provide for the maintenance of two key existing tracks on sites moving from Group 2 to Group 1 exceptions to the rule have been provided for two distinct areas on two properties. It is considered that these exceptions will not adversely affect the significant values on the sites or undermine the purpose of the proposed Plan Change. These exceptions are considered appropriate and efficient.

The current rules in relation to Group 2 areas relate only to specified vegetation species and areas. Whilst the purpose of this Plan Change was to consider all existing Group 2 areas and either move these to Group 1 or remove them from the Plan, some Group 2 areas were not considered (as they are awaiting tenure review or ecological assessment had not yet been undertaken). Because of this, the existing Group 2 rule (7.6.5.1.13 b)) needs to remain within the District Plan, to address activities within these areas. It is considered appropriate to retain the existing rule rather than amend it as these sites have not yet been assessed.

Furthermore, changes are proposed to the planning maps and Appendix A2 to update these sections of the Plan as per the proposed Plan Change. It is necessary to update the planning maps to reflect the changes in areas and their categorisation as Group 1 or to be removed. This is effective as it ensures that the planning maps are accurate

¹ Natural Environments, 3.1.3 Objectives and Policies, 3.1.3 Objectives and Policies. 3.1.3.1 Nature Conservation

and provide appropriate information to users of the Plan. The changes to Appendix A2 are also necessary for accuracy. These changes primarily relate to the way in which areas are identified in the schedule. Also incorporated are two new maps to show the existing tracks for which exclusions are proposed in the rule, and a note in relation to one area that has an existing resource consent for activities that would otherwise not be anticipated within an ASCV. These amendments are appropriate and efficient as they ensure the Plan is correct and usable.

7.3 Risk of acting or not acting

A risk of acting and proceeding with a plan change is the potential for conflict with landowners or stakeholders, which could lead to proceedings in the Environment Court. This is not considered a large risk due to the significant level of consultation over many years and the apparent agreement with landowners and stakeholders over what is proposed.

The risks of not acting are that significant nature conservation values may be subject to significant adverse effects which are not able to be avoided, remedied or mitigated. There is also the possibility of causing ongoing uncertainty for all stakeholders, including landowners, regarding the future of the Group 2 areas.

Overall, the risks of not acting are considered to be greater than those of acting and it is considered that there is sufficient information in relation to the matters related to this Plan Change.

7.4 Evaluation against the Act

Council has also had regard to those matters under Part II, the Purpose of the Act i.e. Section 5:

"Sustainable management means 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."*

The Council has considered a number of matters when deciding whether to identify significant nature conservation values and protect these through rules in the District Plan, including but not limited to: *'the economic effects on the landholder (if these are relevant under section 7(b) of the Act)'* and *'the compatibility of the existing land use with the values identified'*.

These matters recognise that the land subject to the rules is often part of a working property that needs to be economically viable. As such some 'exceptions' to rules have been provided for through this plan change to provide for access. Apart from these minor amendments to the sites, Council considers that the protection of significant natural resources is a sustainable management practice and important in the protection of significant nature conservation values.

In addition to Section 5, of the Act Council must also recognise and provide for Matters of National Importance (Section 6). Under Section 6 the following matter is of relevance to this Evaluation:

“(b) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna .

The Council must recognise and provide for the protection of areas of significant indigenous vegetation and this is provided for by this Plan Change. The identification and the protection of such sites, under policy direction within the District Plan is a direct response to this matter. And through the protection of vegetation, it is considered that the habitats of indigenous fauna and birds will also be protected.

Under Section 7 the following matter is of relevance to this evaluation:

“(d) Intrinsic value of ecosystems”

The Plan Change, through the protection of indigenous vegetation will assist in protecting ecosystems.

In preparing the Plan Change the Council has had to form an overall judgment on the balance between protecting significant nature conservation values and the potential for activities to be controlled or limited through the application of the rules. Taking an overall view of the protection of significant nature conservation values, biodiversity and the implications for property owners, the Council is satisfied that this proposed Plan Change is the most appropriate way to achieve the purpose of the Resource Management Act.

7.5 Changes to the District Plan

Based on the discussion above, and the evaluation of the preferred option, a range of changes are necessary to the District Plan. These include:

- Changes to the District Plan Text including:
 - Amendments to 3.1.3.3 Implementation Methods
 - Amendments to 3.1.3.4 Explanation and Reasons
 - Additions to rule 7.6.5.1.13
- Changes to Appendix A2 to reflect changes to the listings in Group 1 and Group 2
- Changes to the Planning Maps to show the changes to Group 1 and Group 2

These changes can be seen in Appendices 6-8.