

PROPOSED ASHBURTON DISTRICT PLAN

Preface to Section 42A Reports

Prepared by
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For
Ashburton District Council

2011

1.0 PURPOSE OF THE PREFACE

The purpose of this preface is to act as an introductory chapter to all subsequent s42a reports¹. It provides the reader with a brief overview of the review process, the reasons for undertaking the review, the consultation undertaken to date, describes particular areas where specialist technical expertise has informed the review process, and offers a general guide to the Proposed Ashburton District Plan and the review process. It also introduces the principal authors of the s42a reports.

2.0 REASONS FOR REVIEWING THE ASHBURTON DISTRICT PLAN

Under Section 79 of the Resource Management Act 1991, all territorial Councils are required to review their District Plans every 10 years. Ashburton's current District Plan was made operative in 2001.

The review process has provided an opportunity for Ashburton District Council to update the District Plan to consider issues which have become apparent over the last 10 years and to modify/update rules as may be required. Notable changes have occurred within the District and Region since the adoption of the current District Plan. A number of issues affecting how the natural and physical resources of the district are managed have been identified including concern over residential development in rural areas, as well as the expanding urban fringe of the District's townships. There have also been questions raised over current and potential changes in the High Country, especially as the Tenure Review process is changing land ownership patterns. Other matters have come to the fore through the consultation and submission processes, and these are discussed in the s42a reports.

3.0 BRIEF OVERVIEW OF THE REVIEW PROCESS

The Proposed Ashburton District Plan has been informed by consultation, collaboration, experience, expert and technical advice and guiding legislation. Among a wide range of resource management challenges, the proposed Ashburton District Plan has sought to respond to a growing population, changes in land use, society's changing attitudes to resource management and a growing awareness of and new thinking around sustainable development and climate change. The main inputs into the Proposed District Plan can be summarised as follows:

- Consultation:
 - Public consultation was undertaken during April 2008 and July to September 2009. Additionally, the public were able to discuss the Proposed Plan at any time with Council and its consultants, and many took advantage of this opportunity.
 - One on one meetings were held with organisations and Requiring Authorities throughout this period.

¹ 'S42a report' refers to reports prepared for the District Council in accordance with section 42a of the Resource Management Act 1991. It is sometimes referred to as the Officer's Report. In the case of a review of the District Plan, the s42a report is intended to assist decision making in respect of submissions and further submissions made on the proposed District Plan.

- Research and review of:
 - up to date resource management practice and case law.
 - other statutory documents such as updates to the Resource Management Act, The Canterbury Regional Policy Statement, Proposed Canterbury Natural Resources Regional Plan, National Policy Statements and National Environmental Standards.
- Ongoing input of Councillors in drafting the Proposed District Plan, with the content reflecting policy decisions made by elected representatives
- The use of experts in resource management law, landscape, geology, trees, heritage, traffic and noise.
- The experience of staff in implementing the current District Plan over the last 10 years and the understanding developed over that time as to the effectiveness of the Plan provisions.
- Roll-over of rules and outline development plans from recent Private Plan Changes.
- Requests for new designations and scheduled activities, changes to existing designations and the removal of existing designations no longer required.
- Council's increasing understanding and knowledge regarding the sustainable management of the resources of the District.
- Councillors drive to produce more of a 'directive' rather than an 'enabling' plan i.e. a greater orientation towards outcomes around resource use and management.
- The Ashburton District Development Plan and Small Villages Development Plan developed through meetings with key stakeholders and public consultation from 2004 onwards, provide a planned approach to growth and forms the basis for proposed zoning changes.
- The Town Centre Concept Plan which provides a blueprint for future development and improvements in the town centre of Ashburton, is being implemented in part through the zoning of sites in the Proposed District Plan
- Changes that have occurred throughout the District over the last 10 years for example Tenure Review which has altered land ownership patterns in the High Country and prompted changes in the use of the land.

3.1 Consultation

The process has involved extensive consultation with, the general public, stakeholders and Requiring Authorities.

3.1.1 Stakeholders

A range of organisational and institutional stakeholders were contacted during 2008 by letter and invited to attend a meeting to discuss District Plan issues at a very broad level. Key-stakeholders such as Forest and Bird, Department of Conservation, Fish and Game, New Zealand Historic Places Trust, New Zealand Transport Agency and The Regional Council were invited to present their concerns to Councillors at

workshops held in September and November 2008. This contact and engagement continued on an ad-hoc basis throughout 2009 and up until notification in April 2010.

A meeting was also held with Arowhenua, the local Rununga in 2008 with subsequent collaboration between the Council and Arowhenua during the writing of the Takata Whenua section of the proposed District Plan in 2010.

3.1.2 Public

Public meetings in Ashburton, Rakaia and Methven were held during April 2008 to introduce the Plan Review process to the public. During July, August and September 2009, public open evenings were held in Methven, Rakaia, Mt Somers, Chertsey, Hinds, Ashburton, Barrhill and Mayfield to present draft proposed changes to the zones and rules to the public for comments and feedback.

A record of the Councillor workshops and all consultation is available as part of the S32 report prepared and notified at the same time as the Proposed Plan. The s32 report is a statutory responsibility on the Council under the RMA and provides extensive background information on reasons for proposed changes and evaluative analysis of potential options.

3.2 Research

There were several aspects to this work stream, and these are described below:

As part of the review process, it was deemed appropriate to undertake research into current resource management practice. This involved consideration of other 'second generation' plans such as the Combined Wairarapa District Plan, Proposed Western Bay of Plenty and Proposed Tararua District Plan as well as Ministry for the Environment guidelines and other research papers on resource management matters.

A brief review of case law was undertaken in key areas such as rural rezoning and subdivision, and to provide an understanding of the implementation of statutory requirements. This provided guidance on the wording of proposed plan provisions and implementation.

In addition, it was necessary to consider and where appropriate incorporate or not be inconsistent with other statutory documents such as the Resource Management Act, The Regional Policy Statement, Proposed Natural Resources Regional Plan, and National Policy Statement (NPS) on Electricity Transmission, Proposed NPS on Renewable Electricity Generation, and Freshwater Management and National Environmental Standard for Telecommunication Facilities.

3.3 Collaboration and Experience

The Proposed District Plan is a result of collaboration between Councillors, staff and consultants. Councillor's input has been ongoing since 2007 with a series of workshops held with elected representatives who made policy decisions on the content of the plan.

Workshops were held during 2008 to discuss issues at a general level. These early

discussions were broadly focussed and did not consider specific rules or other methods of control. During 2009, workshops to discuss the wording of objectives, policies and rules were held on a 6 weekly basis and three workshops were held in 2010 to discuss amendments made to sections of the Proposed Plan. Following this extensive process, Council approved the proposed Plan for public notification.

Fundamental to understanding changes required to the current District Plan was Council staff's experience in implementing that Plan over the last 10 years and their knowledge of the effectiveness of the Plan provisions. In addition, Council's preferred approach towards managing the resources of the District has seen a shift in emphasis from the current 'enabling' District Plan towards producing a more 'directive' proposed District Plan. The experiences in urban centres and townships within the District reflect comparatively high rates of population growth, and the associated development pressures that accompany such growth. In rural parts of the District, rural practices and land use are constantly evolving, influenced by factors such as the Tenure Review process in the High Country and the change in land use from dry pasture to cropping, and the increasing importance and demand for water, the introduction of irrigation, the increasing number of dairy farms on the Plains, access to high quality drinking water and a growing population, which was not so significant 10 years ago, but has more recently put pressure on rural land and expanded urban boundaries.

3.4 Background documents

The Ashburton District Development Plan, adopted by Council in June 2005 identifies areas for future residential and business development in Ashburton, Methven and Rakaia, and has formed the basis for zoning in the Proposed District Plan.

A Small Villages Development Plan adopted in 2008, provides a plan for the future development of Hinds, Mayfield, Mount Somers and Barrhill, and has also informed the preparation of the Proposed District Plan.

The Town Centre Concept Plan, adopted in 2009 provides the basis for future development and improvements in Ashburton town centre and has also influenced the zoning proposed in the District Plan.

3.5 Experts

A range of expert advice was sought on various issues. Some of these issues relate to topics that must be addressed under section 6 of the RMA.

3.5.1 Legal

Cavell Leitch Pringle & Boyle have been engaged as Council's legal representatives for the entire review process and to advise the Council on matters of law especially in regard of amendments made to the Resource Management Act in 2009. They reviewed the proposed District Plan to ensure it met all statutory obligations and in particular considered:

- The “legal effect table” (this is a table of rules that have immediate effect) that is included in the proposed plan pursuant to section 86E of the RMA;
- The “non-notification/notification” directions that have been included under section 77D of the RMA;
- The approach to the section 32 analysis; and
- The correct approach to statutory and non-statutory consultation pre and post-notification.

Cavell Leitch Pringle & Boyle will continue to play an important role throughout the hearing process, providing legal advice and representing the Council at hearings as and when necessary.

Buddle Findlay will also act for Council, providing legal advice on matters for which Cavell Leitch has an actual or perceived conflict of interest e.g. Cavell Leitch having acted for Council as applicant for resource consent for the art gallery and museum.

3.5.2 Landscape

In July 2009 Ashburton District Council commissioned Boffa Miskell to prepare a landscape assessment of the District, in particular to reconsider those areas identified in the operative District Plan as Outstanding Natural Landscapes. Although, a regional landscape study had been undertaken in 2008, it was not considered sufficient for the purposes of identifying landscapes that may be outstanding or otherwise significant at a district level.

The landscape assessment involved both a desktop study based on the regional landscape study and, fieldwork within the Ashburton District based upon the same factors and assessment methodology as the Regional Landscape Study completed in 2009. The assessment was completed in September 2009 and was presented to Councillors on 20th October 2009.

The landscape study identified natural features and landscapes, each with unique characteristics and values as follows:

- The **Inland Mountain Ranges** covering approximately 50km length of the Southern Alps.
- The **Front Ranges** situated between the Ashburton Plains and the High Country.
- The **Hakatere Basin** located between the inland mountain ranges of the Main Divide and the front ranges.
- The valleys of the Rakaia and Rangitata Rivers (**Major River Valleys**) which are internationally important examples of braided river systems.

The report also recognised that existing levels of modification vary greatly within each landscape type, with the Hakatere Basin being considered to be the most vulnerable to change and the Inland Mountain Range less so due to its isolated location. This work has directly informed the objectives, policies and rules of the Proposed Plan, enabling different management techniques to be developed for each distinct outstanding natural landscape area.

3.5.3 Geoconservation

Geoconservation is the preservation of geologically important areas and specific features within them.

The current District Plan contains a list of geoconservation sites that are also identified on the planning maps. These sites are not subject to any rules. However, work on confirming the boundaries and values of these sites and identifying further sites has been continuing since 2001. A report on 'Geoconservation in Ashburton District' was commissioned by the Council and prepared by Bruce and Patricia Riddoll in 2006 along with a complimentary planning report. Consultation has also been progressing and each affected and interested party has received a copy of the planning and geoconservation reports.

Council considered that due to the intrinsic link between geoconservation and landscapes that this work should be rolled over into the district plan review.

Subsequently, Bruce and Patricia Riddoll were again engaged by the Council to review the list of geoconservation sites in the current District Plan and to consider sites requested through previous consultation processes. Bruce and Patricia Riddoll produced a report for the Council which identified sites that they considered had sufficient value to be protected through the District Plan. They also considered threats to these geoconservation sites and suggested suitable mitigation techniques.

This work has directly informed the objectives, policies and rules of the Proposed Plan, and the development of appropriate management techniques for geoconservation sites and areas, and their associated values.

3.5.4 Trees

Within the current District Plan there is a schedule of Heritage Trees that are protected through rules in the District Plan. However, given that trees are felled or die, and that trees planted 10 years ago may have grown into significant specimens, Council considered that a full review of the schedule was required. Furthermore, there were no criteria included in the current Plan to determine which trees should be protected.

David Askin, the Parks Manager at Ashburton District Council was involved in this aspect of the work as he is instrumental in maintaining and managing all trees in the District's parks and reserves as well as providing input on consent applications to remove protected trees.

Trees, both currently identified in the Plan and others identified by David, were scored against the following criteria:

- heritage / historic value;
- scientific or botanic value, including rarity or representativeness;

- importance of position in the landscape, including landmark significance;
- cultural, ethnical, social, spiritual or recreational significance, including any commemorative value;
- age;
- size;
- form and condition;
- contribution to local amenity as an individual tree or as part of a stand of trees;
- suitability in relation to the setting or site conditions;
- functional value.

Trees meeting the required threshold were considered to be of such significance as to require protection through the District Plan. These trees were listed in the Proposed District Plan and are subject to policies, objectives and rules. The set of criteria which will be used to identify trees for protection in the future was also included in an appendix to the Plan.

3.5.5 Heritage

The Ashburton District contains a number of distinctive and significant heritage buildings, however the rules protecting them were considered by the Council to be inadequate. To reassess both the heritage value of places, buildings and objects within the District and the effective management of associated historic and heritage values, it was considered necessary to undertake a review of all heritage buildings/items listed in the Plan.

The local branch of the Historic Places Trust assisted with this work; reviewing the current list of heritage buildings/items and proposing additional buildings with evidence of why they should be included.

All property owners were consulted and given the opportunity to comment on the proposed listing. The final list of heritage buildings/items, including requests for some to be added were considered and approved by the Council prior to inclusion in the Proposed District Plan.

3.5.6 Parks and Reserves

Ashburton District has a significant number of parks and reserves that are managed and maintained by the Council. When the Council was considering if and how such open space should be zoned and managed, it consulted with the Property Department. This department is responsible for the management, maintenance and leasing of all reserves in the District and as such has an excellent knowledge of their uses and future requirements, for example parts of the larger rural reserves are often leased for grazing. Their input into the review process provided a useful basis for the consideration of zoning requirements, and appropriate rules and other management methods.

3.5.7 Traffic

Traffic Design Group Ltd (TDG) was engaged by Ashburton District Council to provide expertise on matters related to transport in the District Plan, in particular road classifications, formation standards of access ways, roads and parking areas as well as numbers of car parks required for activities. TDG undertook a review of the current District Plan provisions and was involved in drafting the proposed Plan provisions to ensure that they reflect current practice, standards and national guidelines.

3.5.8 Noise

Marshall Day Acoustics Ltd was engaged by Ashburton District Council in 2008 to provide expert advice on all matters relating to noise in respect of the Proposed District Plan. A review of the existing provisions revealed that the operative District Plan noise standards are amongst the most stringent in New Zealand. Marshall Day assisted Council in revising the standards and creating a specific noise section for inclusion. The Proposed Plan provisions reflect current practice, Marshall Day's extensive experience and National Environmental Standards.

3.5.9 Operations Department

The Operations Department of Ashburton District Council is responsible for a significant number of Council assets including stormwater and waste water networks, pumping stations and treatment plants, as well as infrastructure associated with potable water supply. The Council drew on this expertise when reviewing the Utilities Section of the Plan and during consideration of proposed rules.

3.5.10 Requiring Authorities (Designations)

Requiring Authorities², including the Council were initially contacted in January 2008 inviting them to raise issues of concern and then again in October 2008 to ascertain any existing designation/s³ already within the District Plan that needed to remain in the District Plan without modification; any modifications required to existing designation/s including the nature and extent of the modification; any designation/s that needed to be removed from the District Plan and any requirements for new designation/s.

Their responses were fundamental in mapping proposed designations as well as updating the list of designated sites in the Proposed District Plan. Furthermore their knowledge of operating utilities proved critical when developing rules to manage the effects of the very diverse range of utilities anticipated across the District.

3.5.11 Plan Changes

During the period of writing the proposed plan sections and prior to the notification of the Proposed District Plan, six private and one Council plan change were approved by Council. These were as follows:

Methven Trotting Club Private Plan Change approved in September, 2008 which rezoned an 11.6 hectare site on Racecourse Avenue, Methven from Rural A to Residential to provide for residential development to the north of Methven to be undertaken in accordance with an Outline Development Plan (ODP). The ODP provides for internal roads, walkways, reserves and a 40m buffer zone adjacent to a seed-cleaning facility.

Lochhead Private Plan Change approved in October, 2009 which rezoned a 27.2 hectare site bounded by State Highway 77, Barkers and Holmes Roads from Rural A to Residential, Residential 2 and Open Space to provide for medium to low density development, subject to an ODP.

Aquatic Park Private Plan Change approved in October 2009 which extended the area zoned as "Aquatic Park" by a further 468 hectares. The rezoning provided for the extension of Lake Hood, an additional 350 residences, a Riversdale Homestead heritage area, recreational areas, and included provision for the extraction, processing, storage, and transportation of gravel, subject to an ODP.

² Requiring Authorities can be a Minister of the Crown; a local authority; or a network utility operator. Of relevance to the Ashburton District, network utility operators include those organisations that operate or propose to operate a network for the purpose of telecommunication or radiocommunication or are an electricity operator or electricity distributor or undertake or propose to undertake the distribution of water for supply (including irrigation); or undertake or propose to undertake a drainage or sewerage system; or construct, operate, or propose to construct or operate, a road or railway line; or are an airport authority.

³ Designations are provisions in district plans which provide notice to the community of an intention by the council or a requiring authority to use land in the future for a particular work or project.

Trevors Road Private Plan Change approved in February 2010 which rezoned land on Trevors Road, Ashburton from Rural A to Residential, Residential A, Rural-Residential and Open Space to provide for high (360m²) to low density residential development (4,000m²), subject to an ODP.

Areas of Significant Nature Conservation, a Council Plan Change approved in February 2010, which:

- transferred those sites/areas in Group 2, which have been assessed as having significant nature conservation values, into Group 1.
- removed from the District Plan those sites/areas in Group 2, which have been assessed as not having significant nature conservation values.
- amended site boundaries of sites/areas in Group 2 to be included in Group 1.
- updated 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.
- updated Rule 7.6.5.1.13 to reflect exclusions to the rules applying in the Group 1 areas.
- updated 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 removed from the District Plan.
- updated 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.

Carters Estate Private Plan Change approved in March 2010 which rezoned land on Carters Road, Ashburton from Rural A to Residential to provide for low density development with a minimum allotment size of 2,000m², subject to an ODP.

Village Green Private Plan Change approved in July 2010 which rezoned land on Huntingdon Avenue, Tinwald from Rural B to Residential, subject to an ODP and scheduled the existing Aquatic Park storage building.

Given that these plan changes were very recent and have been through a public process, the Council did not consider it necessary to review the provisions associated with these plan changes and they were incorporated, without amendment, into the Proposed District Plan.

4.0 THE PROPOSED ASHBURTON DISTRICT PLAN LAYOUT

The Proposed Ashburton District Plan is divided into 17 sections; these consider the 5 types of zones (Rural, Residential, Business, Open Space and the Aquatic Park) as well as District Wide matters such as Utilities, Hazardous Substances and Heritage Values.

For consistency and ease of understanding, each section of the District Plan is constructed in a similar manner. They each set out:

- Issues

- Zone Description (where relevant)
- Objectives and policies
- Anticipated Environmental Outcomes
- Methods of Implementation
- Activity list
- Site and zone standards
- Assessment Matters

5.0 NOTIFICATION AND SUBMISSIONS

The Proposed Ashburton District Plan was notified on 21st April 2010 with submissions closing on 18th June 2010 and further submissions closing on 10th November 2010. The Proposed Ashburton District Plan, section 32 report and subsequently, the summary of submissions were available for public inspection at: Ashburton District Council; the Ashburton Library, I-site centre in Methven and Mobil service station in Rakaia and on the Council's website at www.ashburtondc.govt.nz.

6.0 SECTION 42A REPORTS: ANALYSIS OF SUBMISSIONS AND FURTHER SUBMISSIONS

As introduced earlier, the decisions sought in the submissions have been analysed in what are known as Section 42A (s42A) reports, which are prepared under Section 42A of the Resource Management Act. Approximately thirty s42A reports are expected to be produced as follows:

Report number	Plan Section	Topic
1.	All	Preliminary topics, out of scope submissions, second bridge, etc
2.	S1	Introduction
	S2	Takata Whenua
3.	S13	Signs
4.	S16	Hazardous Substances
5.	S7	Aquatic Park
6.	S15	Relocated Buildings and Temporary Activities
7.	S17	Definitions
8.	S11	Noise (including noise expert report)
9.	S10	Transport (including transport expert report)
10.	S8	Scheduled Activities
11.	S12	Heritage/Trees – heritage
12.	S12	Heritage/Trees – trees
13.	S14	Utilities/Designations – all utility issues
14.	S14	Utilities/Designations – designations generally in response to requiring authorities
15.	S14	Utilities/Designations – designations in response to Ashburton District Council designations
16.	S4	Residential – All general issues
17.	S4	Residential – All rules, reasons for rules, and assessment matters
18.	S6	Open space

19.	S5	Business – All general issues
20.	S5	Business – All rules, reasons for rules, and assessment matters
21.	S3	Rural – All issues relating to rural density e.g. rule 3.10.1, reasons for that rule, density objectives/policies AND including subdivision density rules for rural areas
22.	S3	Rural – All general issues e.g. Introduction, Issues (not density, landscapes, Areas of Significant Conservation Value and Geoconservation sites)
23.	S3	Rural – All other objectives/policies (not density, landscapes, Areas of Significant Conservation Value and Geoconservation sites)
24.	S3	Rural – All other rules. (not density, landscapes, Areas of Significant Conservation Value and Geoconservation sites)
25.	S3	Rural – outstanding landscape issues?
26.	S3	Rural – Areas of Significant Conservation Value (including ecology expert report)
27.	S3	Rural – geoconservation areas (including geoconservation expert report)
28.	S9	Subdivision – all matters except rural density which is in a rural report
29.	S18	Maps – all Rural A/B boundary issues
30.	S18	Maps – all other issues

6.1 Format of the s42A reports

Within each report, the submissions are grouped according to the issue they relate to rather than analysing each submission individually. Submissions very often lend themselves to this approach as they may address common issues and/or the same provisions within the proposed Plan. The s42A evaluation and reporting is intended to:

- 1) assist the Hearing Panel in making its recommendations on the submissions and further submissions to the Proposed Ashburton District Plan;
- 2) assist submitters and further submitters, including those who want to be heard, by providing, prior to the hearing an evaluation of decisions requested in submissions.

The evaluations and recommendations presented in the report are based on the information available prior to the hearing, including that contained in the submissions and further submissions.

In evaluating the submissions and further submissions, the matters considered include whether a decision requested:

- falls within the functions of Ashburton District Council under the Resource Management Act 1991 (RMA);
- will enhance the ability of the Proposed Ashburton District Plan to achieve the purpose of the RMA;
- will improve an objective so that it is a more appropriate way to achieve the purpose of the RMA;
- will improve a policy, rule or other method so that it is more efficient and effective for achieving the relevant objectives;
- will improve the plan in relation to such matters as its lawfulness, clarity, accuracy, effectiveness, coherence, integration, etc.

For ease of reference, there is a table attached as an appendix to each report detailing the submissions made on that section of the Plan, the relief sought and whether it has been recommended to accept (fully or in part) or reject said relief.

Each s42A report will be circulated to all submitters who made submissions relating to the topic of that report and who requested to be heard. The reports will also be publicly available.

For each s42A report a hearing or multiple hearings will be held. The hearings provide an opportunity for submitters who made submissions on the Proposed District Plan, and requested to be heard, to speak in support of their submissions. It also allows the Hearings Panel to clarify or seek additional information on points raised in submissions.

7.0 STATUTORY CONSIDERATIONS

The following is a brief summary of the key statutory considerations, which must be noted as part of considering this Proposed Plan. **Appendix One** contains the relevant text from the Resource Management Act 1991 (RMA).

Section 79 of the Act requires a territorial authority to review its district plan every 10 years. The process for this is set out in Schedule 1 of the Act. Part 1 of the First Schedule sets out the requirements for a proposed district plan. Among other things, consideration of sections 31, 32, 75(2) and Part 2 of the Act are required in preparing a proposed District Plan.

Section 31 sets out the functions of territorial authorities in giving effect to the purpose of the Act and the provisions of Part 2.

In accordance with Section 32 of the Act, the Council has a duty to consider alternatives, benefits and costs of the proposed plan. The Section 32 assessment has been publicly available from the date of notification and will be available at the hearings. The section 32 process continues through to the ultimate determination of submissions and adoption of the proposed District Plan.

In addition, Section 75 requires the District Plan to give effect to any National Policy Statement, New Zealand Coastal Policy Statement and the Regional Policy Statement. It

must also not be inconsistent with a Water Conservation Order or a Regional Plan. For completeness, it is noted that in making a decision on the Proposed Plan, the Council is guided by Clause 10 of the First Schedule to the RMA.

8.0 PRINCIPAL REPORT AUTHORS

The Council has engaged the services of Boffa Miskell Limited (BML) to lead the preparation of the s42a reports and to manage the hearing process on the review of the District Plan. BML has had a long association with the Council providing principal planning and other advisory services to the Council throughout the review process, having also provided similar services in the development of the operative District Plan.

Input into the various s42a reports will at times require a range of expertise and knowledge, including professional advice additional to that provided by BML such as by other consultancies, legal advisors and Council staff.

It is however anticipated that the principal authors and presenters of the s42a reports to the hearings will be as follows:

Ken Gimblett

I am a Planner/Director with the firm of Boffa Miskell Ltd, and have 25 years experience working for local government in the UK and New Zealand and in private consultancy, primarily within the South Island. I have led the Boffa Miskell team since the review of Ashburton District Plan began in 2007. I am a full Member of the New Zealand Planning Institute.

Stephanie Styles

I am a Planner/Associate Principal with the firm of Boffa Miskell Ltd. I hold a Bachelor of Planning Degree with Honours from Auckland University, and I have 14 years experience working for both local government and in private consultancy, primarily within the South Island. I have been involved with the review of Ashburton District Plan since it began in 2007, and prior to that I assisted with the preparation of the Ashburton District Development Plan. I am a full Member of the New Zealand Planning Institute.

Claire Kelly

I am a Planner with the firm of Boffa Miskell Ltd and hold a Master of Environmental Management from the University of Nottingham. I have 5 years experience working in private consultancy primarily within the South Island. In particular, I have been involved with the review of Ashburton District Plan since it began in 2007. I have extensive knowledge of the Proposed Plan provisions and the submissions, having been closely involved in creating the summaries and s32 documentation. I am an Associate Member of the New Zealand Planning Institute.

APPENDIX ONE: STATUTORY CONSIDERATIONS

Section 74 states:

- (1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.
- (2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—
 - a) any—
 - (i) proposed regional policy statement; or
 - (ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and
 - b) any—
 - (i) management plans and strategies prepared under other Acts; and
 - (ii) *[Repealed]*
 - (ia) relevant entry in the Historic Places Register; and
 - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—

to the extent that their content has a bearing on resource management issues of the district; and
 - c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.
- (2A) A territorial authority, when preparing or changing a district plan, must—
 - a) take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and
 - b) recognise and provide for the management plan for a foreshore and seabed reserve adjoining its district, once the management plan has been lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.
- (3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition

Section 31 states:

Functions of territorial authorities under this Act

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
- (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
 - (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—
 - (i) the avoidance or mitigation of natural hazards; and
 - (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and
 - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:
 - (iii) the maintenance of indigenous biological diversity:
 - (c) *[Repealed]*
 - (d) the control of the emission of noise and the mitigation of the effects of noise:
 - (e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:
 - (f) any other functions specified in this Act.
- (2) The methods used to carry out any functions under subsection (1) may include the control of subdivision

Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources

“Natural and physical resources” are defined in Section 2 of the Act as including “land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.”

Under Section 5(2) “sustainable management” is interpreted to mean:

... 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 6: Matters of National Importance identifies the following matters of national importance in achieving the purpose of the Act:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of recognised customary activities

Section 7: Other Matters identifies the following items that shall be had particular regard to in achieving the purpose of the Act:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
 - (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
 - (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) *[Repealed]*

- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy

Section 8: Treaty of Waitangi states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Section 32 states:

Consideration of alternatives, benefits, and costs

- (1) In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by—
 - (a) the Minister, for a national environmental standard or a national policy statement; or
 - (b) the Minister of Conservation, for the New Zealand coastal policy statement; or
 - (c) the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Schedule 1); or
 - (d) the person who made the request, for plan changes that have been requested and the request accepted under clause 25(2)(b) of Schedule 1.
- (2) A further evaluation must also be made by—
 - (a) a local authority before making a decision under clause 10 or clause 29(4) of Schedule 1; and
 - (b) the relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.
- (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 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.
- (5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.
- (6) The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made

Clause 10 of the First Schedule to the RMA, states:

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
 - (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
 - (i) the provisions of the proposed statement or plan to which they relate; or
 - (ii) the matters to which they relate; and
 - (b) may include—
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.
- (3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
- (4) The local authority must—
 - (a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and
 - (b) publicly notify the decision within the same time.
- (5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision