

# PROPOSED ASHBURTON DISTRICT PLAN

---

Section 1: Introduction

Section 2: Takata Whenua Values

Report No 2

*Prepared by*

**Boffa Miskell Limited**

*For*

**Ashburton District Council**

January 2011

## Contents

1.0	INTRODUCTION.....	3
2.0	HOW TO READ THIS REPORT.....	3
3.0	BACKGROUND.....	3
4.0	ANALYSIS OF SUBMISSIONS.....	4
5.0	STATUTORY CONSIDERATIONS.....	8
6.0	ERRORS AND CORRECTIONS.....	8
7.0	RECOMMENDATIONS.....	9
	APPENDIX ONE: SUMMARY OF RECOMMENDATIONS ON SUBMISSIONS.....	10
	APPENDIX TWO: DISTRICT PLAN AMENDMENTS.....	13

## **1.0 INTRODUCTION**

- 1.1 This report has been commissioned by the Ashburton District Council (ADC) in accordance with Section 42A of the Resource Management Act 1991 (RMA) to consider all submissions received on sections 1 and 2 of the proposed District Plan, following the public notification of the proposed Ashburton District Plan including Planning Maps, and to make recommendations on those submissions.
- 1.2 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. The purpose of this report is to bring to the attention of the Hearings Panel the relevant information and issues regarding these sections of the proposed District Plan. It must be emphasised that the conclusions and recommendations made in this report are my own and are not binding upon the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusion following consideration of all the evidence to be presented at the hearing. The recommendations in this report are made on the basis of the information available at the time of writing. It should be noted that subsequent reports prepared on other topics may include recommendations that differ due to additional information becoming available during the course of hearings.
- 1.3 This report has been prepared by Stephanie Styles. Please refer to the Section 42A Preface Report for more information on the report author, along with background to the development of the proposed District Plan.

## **2.0 HOW TO READ THIS REPORT**

- 2.1 This report is structured as follows:
- Background to the plan section/s
  - Description of the submissions on provisions in this section/s
  - Summary of main issues raised
  - Discussion of issues
  - Recommendations and reasons
- 2.2 Appendices attached to this report include:
- Appendix One:** Summary of Recommendations on Submissions and Further Submissions
- Appendix Two:** District Plan Amendments

## **3.0 BACKGROUND**

- 3.1 This report relates to two sections of the proposed District Plan; Section 1: Introduction and Section 2: Takata Whenua Values. These are the first two sections within the proposed District Plan and set the scene for the document. The Introduction section

provides a general overview of what a District Plan is and what it contains, it also provides guidance on how to use the District Plan. The Takata Whenua Values section sets out a summary of the values of the Ashburton District to Iwi, the issues faced and key objectives and policies.

#### **4.0 ANALYSIS OF SUBMISSIONS**

- 4.1 A range of submissions and further submissions were received on these sections of the proposed District Plan. Consideration of these submissions has been undertaken by topic or section with submitters grouped as appropriate. The following analysis focuses on those parts of the submissions that seek specific outcomes and does not discuss any parts of submissions that comment on aspects of the Plan in passing or provide general discussion. My analysis of submissions below is generally in relation to broad issues or topics raised, with some specific relief sought being mentioned where necessary. Based on this analysis, included in Appendix One to this report are my specific recommendations on each submission point (accept, accept in part, or reject).
- 4.2 Some aspects of these sections did not attract submissions and therefore these aspects of the District Plan have not been discussed below, and I recommend that they be accepted as notified.

#### **Section 1: Introduction – Clause 1.4: Rules that will have immediate effect**

##### **Summary of Main Issues**

- 4.3 Only one submission was received in relation to this clause, from the Ashburton District Council<sup>1</sup> seeking a correction within the table.

##### **Discussion**

- 4.4 The Council has correctly pointed out that there is a typographical error in the table as it refers to the Heritage Values and Protected Trees section as “Section 11” when it should be “Section 12”. I consider this to be a necessary correction and recommend that this submission be accepted and the correction made.

#### **Section 1: Introduction – Clause 1.7: How the District Plan and maps work**

##### **Summary of Main Issues**

- 4.5 Two submissions<sup>2</sup> were received on this clause seeking clarification of how roads are zoned. One further submission<sup>3</sup> was received in support of the Ashburton District Council submission.

---

<sup>1</sup> Submission 639, point 1.

<sup>2</sup> Submission 639 from Ashburton District Council, point 2, and submission 635 from Electricity Ashburton Ltd, point 44.

<sup>3</sup> Further submission 71 from Electricity Ashburton Ltd.

### Discussion

- 4.6 Both submissions note that the proposed District Plan did not make it explicit what zoning applies to roads. All roads in the District are designated either by the Council or by the New Zealand Transport Agency (State Highways). However the intention is that all roads also have an underlying zoning that applies to any activities that fall outside the designated purpose.
- 4.7 The intention is that roads have an underlying zoning according to the zoning of the adjacent land. Where zones are different on either side of the road, the zone boundary runs down the midpoint of the road. I support this approach and consider it appropriate and efficient.
- 4.8 The Council submission seeks to provide this clarity within both this clause of Section 1 and also within the Utilities section, with an additional note to be added to the map legend. I agree that this is a good approach to ensure that all users of the Plan understand the zoning applicable, and I recommend that additional text be added to this clause accordingly. I do not recommend that the maps be amended to try to show the zone boundaries as this would become very complicated and could cause added confusion for users.
- 4.9 In addition, the submission from the Council also seeks that there be an exception where a road adjoins an Open Space zone, such that utilities within the road are not subject to rules for the Open Space zone. The reasoning for this is because the utilities rules specifically override the rules in all zones except the Open Space zone, however the Council considers that within a road area the utility rules should have precedence, even though the underlying zoning may be Open Space. I agree with this approach as I consider the road area to have a different character and level of sensitivity to those areas identified as Open Space zone. I suggest the wording be slightly amended from that proposed in the submission to make it clear that in these circumstances, the utilities rules apply, so the wording would read *“Where a road adjoins an Open Space zone and the underlying zoning is Open Space A or B, utilities within the road shall not be subject to rules for the Open Space zone, and the utilities rules shall prevail.”*

### **Section 1: Introduction – Clause 1.8: Pre-application process**

#### **Summary of Main Issues**

- 4.10 Only one submission was received in relation to this clause, from Silver Fern Farms<sup>4</sup> seeking that further direction and guidance be included on pre-application process.

#### **Discussion**

- 4.11 I agree that the pre-application process is important and that applicant should be encouraged to discuss their proposal with the Council at an early stage, particularly for larger or more contentious projects. However, I do not consider the Council is in a position to specify how such a process may occur as it is appropriate to tailor the process to suit the situation. I do not consider it is necessary or appropriate to add any further information on this to this section of the Plan and do not recommend any changes to

---

<sup>4</sup> Submission 240, point 1.

this section. I do however encourage the Council to prepare guidance on this matter outside the District Plan.

### **Section 1: Introduction – Appendix 1-1: Activity Status Flow Chart**

#### **Summary of Main Issues**

4.12 The one submission<sup>5</sup> on this appendix supports the retention of the appendix as proposed.

#### **Discussion**

4.13 This appendix provides an important role in clarifying in diagrammatic form how the status of an activity is determined. I consider this an important tool and agree that it should be retained.

### **Section 1: Introduction – Appendix 1-2: Information Required With Applications for Resource or Subdivision Consent**

#### **Summary of Main Issues**

4.14 The submissions in relation to Appendix 1-2 seek:

- the requirement to provide colours for elevations to be removed,
- the specific mention of site boundaries within the list applicable to subdivision, and
- inclusion of additional matters in relation to building platforms, stormwater treatment and disposal areas, and wastewater treatment and disposal areas, within this appendix to replace rule 9.9.6.

#### **Discussion**

4.15 I agree with the submission from Lake Hood Extension Project - Joint Venture<sup>6</sup> which notes that common practice is not to select colours for buildings at such an early stage of a project. I consider that in many cases this is not information that will be necessary for the Council to determine either compliance or acceptability of a proposal. However in some situations the colour of a building may be a very important factor in its consideration e.g. in areas identified as an Outstanding Natural Landscape.

4.16 I consider there are three options for dealing with this issue:

1. The wording could be deleted outright as requested by the submitter but this would not alert people to the need for this information in some situations.
2. The wording could be amended to add “in sensitive locations” or “on request” or similar, to enable the Council to clarify what situations such information will be sought at the time of a consent application.

---

<sup>5</sup> Submission 553, point 1, from Federated Farmers of New Zealand.

<sup>6</sup> Submission 327, point 2.

3. The wording could be amended to specify the specific areas in which definition of colour will be wanted e.g. the Residential A zone, or the Rural C zone.
- 4.17 My recommendation is to go for the most flexible option which gives some direction but enables this to be clearly defined in appropriate circumstances. I suggest that the wording be amended to read “*materials and colours to be used on the exterior cladding, in sensitive locations and/or by the request of the Council*”.
- 4.18 The submission from Mr Salter<sup>7</sup> raises two issues in relation to this appendix. In relation to his first issue, I agree that the wording within the subdivision list in Appendix 1-2 is not sufficient and should specifically require the definition of existing and proposed boundaries. I recommend the list be amended accordingly.
- 4.19 Mr Salter goes on to suggest that rule 9.9.6<sup>8</sup> is not necessary in many areas and the requirements for an indicative plan would be better placed within this appendix. I agree with the submitter that the way the rule is currently worded does not clearly differentiate between areas able to gain reticulated servicing and those without. I do however consider that in many locations there is a need for such an indicative plan to be provided to ensure that all necessary services can be provided and I note that this issue will be further addressed in the report prepared in relation to Section 9: Subdivision later in the hearing schedule. I also note that the existing list within the Appendix includes mention of these issues and thus the issue raised by Mr Salter is already covered in part in the current provisions. I do not recommend that the text be altered.

## **Section 2: Takata Whenua Values – General**

### **Summary of Main Issues**

- 4.20 A number of submissions were received in relation to this section generally, seeking:
- the section be retained with no change, and
  - that all references to waterway be removed and replaced with “river or stream”.

### **Discussion**

- 4.21 I note the support from Silver Fern Farms<sup>9</sup> for this section of the proposed District Plan and recommend that the section be retained as notified.
- 4.22 In relation to the submission from TrustPower Limited<sup>10</sup> I note that this is a generic submission across the whole of the District Plan. The concern raised by TrustPower is that the use of the term “waterway” in this Plan is defined and used instead of other terms such as “river” or “stream”. They are particularly concerned over the lack of clarity in whether the term “waterway” includes irrigation and electricity generation canals. This issue of definition is, I consider, best left until the report on Section 17: Definitions and any specific recommendation on the decision sought will be included in that report.

---

<sup>7</sup> Submission 522, points 12 and 16, from N K Salter Surveying Ltd.

<sup>8</sup> Section 9: Subdivision, Critical Standard 9.9.6: Indicative Plan.

<sup>9</sup> Submission 240, point 2.

<sup>10</sup> Submission 598, point 74 (and associated points 76 and 77 seeking consequential amendments).

4.23 In any case, I do not consider that the term waterway is inappropriate in the context of the Takata Whenua Values section. Its use in this section is in a general, descriptive manner and I consider it to be appropriate for the nature of this section. I also note that within this section, there are no rules and thus the use of the term cannot lead to any interpretation issues in terms of the Plans implementation. I do not recommend that the use of the word waterway within this section be amended.

## **Section 2: Takata Whenua Values – Clause 2.5: Methods of implementation**

### **Summary of Main Issues**

4.24 The submission on this clause relates to the request from Ashburton District Council to ensure that all references to external documents within the proposed District Plan are explicit.

### **Discussion**

4.25 The only mention of external documents within this clause is to the publication “Ko Iwi Tangata” by the Ngai Tahu Maori Trust Board. As a general reference within the implementation methods, this referencing is sufficient and I do not consider it necessary for any change to be made to this clause.

## **5.0 STATUTORY CONSIDERATIONS**

5.1 The relevant statutory considerations in relation to these submissions are whether the outcomes will be consistent with sections 31 and 32 of the Act, along with Part II of the Act. I consider that the recommendations below are both effective and efficient and will ensure that the methods contained in these sections are the most appropriate method for achieving the objectives of the Plan. I consider that these sections of the Plan are appropriate under Part II of the Act in achieving sustainable management within the Ashburton District.

## **6.0 ERRORS AND CORRECTIONS**

6.1 In reviewing these chapters, it has been identified that there are two minor typographical errors that should be corrected at this time<sup>11</sup>. These are:

- Section 1: Introduction, page 1-4, first main paragraph. This refers to “Long Term Community Council Plan” but should refer to “Long Term Council Community Plan”.
- Section 2: Takata Whenua Values, page 2-9, second to last bullet point. This refers to “Environment Canterbury” but should refer to “Canterbury Regional Council” for consistency with the rest of the Plan.

6.2 As these are minor corrections, I recommend that that be amended as part of the decisions on these chapters.

---

<sup>11</sup> RMA, Schedule 1, clause 16 allows corrections to be made “where such an alteration is of minor effect, or may correct any minor errors”.

## **7.0 RECOMMENDATIONS**

- 7.1 Based on the discussion above, I consider that, subject to the recommended changes to text set out below, these two sections of the proposed District Plan should be accepted.

**APPENDIX ONE: SUMMARY OF RECOMMENDATIONS ON SUBMISSIONS**

Submitter Number	Submitter Name	Point Number	Relief sought	Recommendation
S639	Ashburton District Council	1	Amend the Table in Section 14.1 as follows: Section 1.4 Table 11 12: Heritage Values and Protected Trees.	Accept
S639	Ashburton District Council	2	Amend Section 1.7 as follows: Section 1.7 How the District Plan and Maps work, p1-4: The zones provide opportunities for future development in keeping with the character and amenity sought for these different area. <u>Roads in the District Plan are zoned according to the zoning either side of the road to provide certainty for anyone proposing works in the road. In cases where the zones differ either side of the road, the zone boundary runs down the centre of the road.</u> <u>Where a road adjoins an Open Space Zone and the underlying zoning is Open Space A or B, utilities within the road shall not be subject to rules for the Open Space Zone.</u>	Accept in part
F71	Electricity Ashburton Ltd		Support	Accept
S635	Electricity Ashburton Ltd	44	A consistent application of zone boundaries and rules to ensure the road is not inadvertently double zoned. Section 14.7.2 a) could be deleted if the road zones are defined as has been suggested.	Accept in part
S240	Silver Fern Farms	1	Whilst the pre-application process is supported, it would appear appropriate for the provision of further direction and guidance on the pre-application process within the appendices to this section.	Reject
S553	Federated Farmers of New	1	Retain Appendix 1.1 as proposed.	Accept

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 2  
SECTION 1: INTRODUCTION, SECTION 2: TAKATA WHENUA VALUES

Submitter Number	Submitter Name	Point Number	Relief sought	Recommendation
	Zealand			
S327	Lake Hood Extension Project - Joint Venture	2	The requirement to provide colours for elevations to be removed.	Accept in part.
S522	N K Salter Surveying Ltd	12	Include proposed boundaries in the list in Appendix 1-2 and delete rule 9.9.1, or If nominated site boundary means something different to proposed site boundary, include a definition of nominated site boundary. Otherwise replace "nominated" with "proposed".	Accept
S522	N K Salter Surveying Ltd	16	Include the following list in Appendix 1.2 and delete Rule 9.9.6 in its entirety or Delete the proposed rule 9.9.6 Indicative Plans and replace it with: All applications for a subdivision consent shall include a plan showing the following details: building platforms where less than the whole site is suitable as a building site due to topography, natural hazards, location of heritage items. stormwater treatment and disposal areas where new areas are being created by the subdivision other than onsite swales and soakpits wastewater treatment and disposal areas including sites for pumping stations where new areas are being created by the subdivision other than onsite septic tanks.	Accept in part
S240	Silver Fern Farms	2	No change required to Section 2.	Accept
S598	TrustPower Limited	74	Remove all references to waterway from the Proposed Plan (i.e. Rule 14.7.4(e)) and replace them with the phrase "river or stream".	Reject
F75	Royal	74	<i>Oppose</i>	<i>Accept</i>

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 2  
SECTION 1: INTRODUCTION, SECTION 2: TAKATA WHENUA VALUES

Submitter Number	Submitter Name	Point Number	Relief sought	Recommendation
	<i>Forest and Bird</i>			
S598	TrustPower Limited	76	TrustPower seeks any similar amendments with like effect to those requested in Submissions 1 to 75 above.	Reject
S598	TrustPower Limited	77	TrustPower seeks any consequential amendments to the Proposed Plan that stem from the relief requested in Submissions 1 to 76 above.	Reject
S639	Ashburton District Council	75	References to external documents in the Proposed District Plan should be made more explicit.	Reject

## APPENDIX TWO: DISTRICT PLAN AMENDMENTS

### Section 1: Introduction

#### Amend Clause 1.5, page 1-4, first main paragraph as follows:

Financial and Development contributions (except for reserves) will be taken under the Long Term ~~Community~~ Council Community Plan (LTCCP). The ...

#### Amend Clause 1.7, page 1-4 as follows:

...

The Planning Maps identify the zones, and the location of features such as heritage items, protected trees, areas of significant nature conservation value, geoconservation sites, designated sites and scheduled activities.

Roads in the District Plan are zoned according to the zoning either side of the road to provide certainty for anyone proposing works in the road. In cases where the zones differ either side of the road, the zone boundary runs down the centre of the road.

Where a road adjoins an Open Space zone and the underlying zoning is Open Space A or B, utilities within the road shall not be subject to rules for the Open Space zone, and the utilities rules shall prevail.

The District Plan contains 17 sections covering the whole District:

...

#### Amend Appendix 1-2, page 1-17 as follows:

...

- building heights and height in relation to any boundary;
- materials and colours to be used on the exterior cladding, in sensitive locations and/or by the request of the Council

#### Subdivision

- Every application for subdivision consent shall include a plan drawn to scale showing the following information:
  - the whole of the land held in physical continuity by the subdividing owner; a diagram may be shown if the land is too large to be drawn at the principal scale;
  - the location of all existing and proposed site boundaries;
  - the location, dimensions, and description of existing and proposed buildings in relation to existing and proposed boundaries;

...

## Section 2: Takata Whenua Values

Amend Clause 2.5, page 2-9, second to last bullet point as follows:

- To co-ordinate with other organisations, such as ~~Environment~~ the Canterbury Regional Council and the Department of Conservation, in consultation requests with Arowhenua Runaka.