

PROPOSED ASHBURTON DISTRICT PLAN

Section 12: Protected Trees

Report No 11

Prepared by

Boffa Miskell Limited

For

Ashburton District Council

May 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	13
6.0	RECOMMENDATIONS	13
	APPENDIX ONE: SUMMARY OF RECOMMENDATIONS ON SUBMISSIONS.....	14
	APPENDIX TWO: DISTRICT PLAN AMENDMENTS.....	21
	APPENDIX THREE: ARBORICULTURAL REPORT FROM WALTER FIELDING-COTTERELL.....	23

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 those submissions received on Section 12: Heritage Values and Protected Trees of the proposed District Plan that relate to the Protected Trees aspects of that chapter (those matters relating to Heritage Values are covered in Report 10), 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
 - Analysis of submissions, including 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
 - Appendix Three: Arboricultural report from Walter Fielding-Cotterell

3.0 BACKGROUND

- 3.1 This report relates to the Protected Tree aspects of Section 12: Heritage Values and Protected Trees of the proposed District Plan. This part of the chapter deals with the need to protect trees of significance to the District, provisions for protection, and a schedule of identified trees.

4.0 ANALYSIS OF SUBMISSIONS

- 4.1 A range of submissions and further submissions were received on this section of the proposed District Plan. Consideration of these submissions has been undertaken by topic or issue 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 this section 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 12: General

- 4.3 The submission from Bruce Conway McClelland¹ considers that changes to heritage trees should not proceed as they will impose further burden on land owners. As explained in the introduction to the District Plan chapter, some significant trees play an important role in the amenity of Ashburton, along with fulfilling various functions for which the Council has a responsibility to protect e.g. as part of natural character, natural features, indigenous vegetation or habitats (under section 6 of the Act). I do not consider it would be appropriate to not proceed with the changes proposed generally, particularly as many of these seek to provide greater clarification of the role of protected trees, provide clarity over how trees are listed, and better provide for their protection long term.
- 4.4 The submission from Transpower² includes a general submission point seeking amendment of the Plan as a whole to ensure effect is given to the electricity national policy statement / national environmental standard, and appropriate acknowledgement of the national grid and associated network. As this is a general point, there is no need to alter this chapter in relation to this submission point. I do note however that Transpower have made specific comments on this chapter which are dealt with elsewhere in this report (and in the report dealing with heritage).

Section 12.1: Introduction

- 4.5 The submission from Electricity Ashburton Limited³ supports the introduction section of this chapter and seeks that it be retained as proposed. I acknowledge this support and recommend that the submission be accepted.

Section 12.2: Issues

¹ Submission 517, point 2.

² Submission 61, point 1 (supported by further submissions F16 from TrustPower and F71 from Electricity Ashburton, and opposed by further submissions F75 from Forest and Bird and F80 from Federated Farmers).

³ Submission 635, point 18.

- 4.6 The submission from Ashburton District Council⁴ seeks that references to external documents in the Proposed District Plan should be made more explicit. There are no references to any external documents in relation to protected trees in this section and therefore no response to this submission is necessary in this report.
- 4.7 The submission from Electricity Ashburton Ltd⁵ supports section 12.2.2 and seeks to ensure that the impact of the rules is in line with the intentions of the objective/policy. This support is noted.

Section 12.3: Objectives and Policies

- 4.8 The submission from Transpower New Zealand⁶ seeks changes to ensure that policy provisions clearly relate only to listed Protected Trees. I have considered the policies that relate to Protected Trees (12.2A-12.2D). Policy 12.2A is specifically about the identification of trees and policy 12.2B is about factors to consider in identification. Policy 12.2C specifies that it relates to identified trees. Therefore these policies are specific to listed trees and do not need to be altered to be any more specific. Policy 12.2D is a general policy in relation to encouragement of planting and protecting trees on publicly owned and managed land and does not relate to Protected Trees specifically. I do not consider it is necessary to change these policies in any way to make them relate to the listing of Protected Trees or to make them more specific to listed Protected Trees.
- 4.9 The submission from Transpower New Zealand⁷ seeks the introduction of a new objective and policy to recognise that protected trees should be identified and taken into account as part of the route selection process, when arriving at the most appropriate line route. I assume by this submission that Transpower are implying that they wish to be bound by such provisions in any selection for new transmission lines.
- 4.10 I do not consider it appropriate to attempt to express all such possibilities within the objective and policies of this chapter. I do not consider such a specific objective and policy to be necessary within this chapter, and if such consideration was to be included I consider it would be best placed within the Utilities chapter where such consideration would occur for new lines. I do however consider it appropriate to consider such matters at the time of a specific proposal, which would be assessed under the relevant tree rules and I recommend that an additional assessment matter be included to express the issue raised by the submitter. I also note that significant works may be undertaken in accordance with a designation, in which case both the protected tree and utility rules would become irrelevant.
- 4.11 The submission from Transpower New Zealand⁸ seeks the introduction of a new policy to recognise that the purpose of the works and the risks of not undertaking the works

⁴ Submission 639, point 75 (and supported by the further submission from Federated Farmers, F80).

⁵ Submission 635, point 19.

⁶ Submission 61, point 58 (opposed by the New Zealand Historic Places Trust, F20, and supported by Electricity Ashburton Limited, F71).

⁷ Submission 61, point 59.

⁸ Submission 61, point 61 (supported by a further submission from the Department of Conservation, F12).

are relevant considerations in making decisions affecting identified Protected Trees. Whilst I can understand and appreciate where the submitter is coming from, I do not consider it to be necessary to include such a specific policy. The overall outcome sought for Protected Trees is expressed in Policy 12.2C which states *“To use methods and rules in the District Plan to protect identified trees from loss or destruction”*. There are many factors that require consideration in making decisions on proposals affecting Protected Trees, and considerations of the needs of infrastructure companies would be one of these. It may also be relevant to consider the needs of the landowner or adjoining landowners/occupiers, environmental considerations, hazards, etc. I do not consider it appropriate or efficient to attempt to express all such possibilities within the policies. I do however consider it appropriate to consider such matters at the time of a specific proposal which would be assessed under the relevant tree rules and I recommend that an additional assessment matter be included to express the issue raised by the submitter.

- 4.12 The submission from Electricity Ashburton Ltd⁹ supports Objective 12.2 and the associated policies (specifically policies 12.2B and 12.2D). This submission from the Department of Conservation¹⁰ also supports the objective and policy 12.2D. The submission from Silver Fern Farms¹¹ supports policy 12.2D. The support from these submitters is noted.

Section 12.5: Methods of Implementation

- 4.13 The submission from Electricity Ashburton Limited¹² supports the second to last bullet point of the Methods of Implementation and seeks that it be retained as proposed. I acknowledge this support and recommend that the submission be accepted.
- 4.14 The submission from Bruce Conway McClelland¹³ seeks *“A fully implemented maintenance programme, agreed to by all concerned parties and funded by Council”*. This issue is in part addressed by the submission from the Council discussed below in paragraphs 4.26 to 4.27 which enables maintenance trimming in an approved management plan to be a permitted activity. Beyond this, any maintenance programme development would occur outside the District Plan and is covered by the last bullet point in the list of Methods of Implementation which states *“The Council, through its Parks Department to continue to provide advice on all trees in urban areas and Barrhill and, assistance with physical works such as trimming”*. It is not appropriate or necessary to add anything further to this list of methods.

Section 12.6: Reasons for Rules

- 4.15 The submission from Electricity Ashburton Limited¹⁴ supports the reasons for rules (12.6.2) for Protected Trees and I acknowledge that support.

⁹ Submission 635, points 20, 21 and 22.

¹⁰ Submission 638, points 45 and 46.

¹¹ Submission 240, point 67.

¹² Submission 635, point 24.

¹³ Submission 517, point 3.

¹⁴ Submission 635, point 25.

Section 12.7: Rules – General issues

- 4.16 As a general issue, Ashburton District Council¹⁵ have identified a need to check each chapter of the Plan and confirm if there is a need to restructure the rules to provide clarification and avoid any contradiction/confusion over the interpretation of rules. This chapter is laid out slightly differently from other chapters and the site standards only apply to heritage buildings (not to Protected Trees). Having reviewed this chapter there do not appear to be any changes necessary to the rules to provide clarification or avoid confusion in interpretation.
- 4.17 The submission from Electricity Ashburton Ltd¹⁶ states that it seeks to “*Ensure that the rules and site standards under 12.7 are not excessively restrictive and place unnecessary administrative processes in the way of reasonable and practical processes that appear to be operating successfully at present*”. At face value, this submission point would appear to be simply seeking that the rules are appropriate and I consider this to be the case.
- 4.18 However the actual issue of concern in this submission point appears to be a concern that the list of protected trees includes all trees located within the legal road reserve¹⁷. I agree that this item is a matter of concern due to the lack of specificity in the way the trees are identified. There is no description of these trees, nor any way to know what is intended to be captured by this listing.
- 4.19 Section 76 (4A) of the RMA was brought in through recent changes to the Act. This section states:
- (4A) *However, a rule must not prohibit or restrict the felling, trimming, damaging, or removal of any tree or group of trees in an urban environment unless the tree or group of trees is—*
- (a) *specifically identified in the plan; or*
- (b) *located within an area in the district that—*
- (i) *is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or*
- (ii) *is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*
- 4.20 I do not consider that item 73 in the schedule of protected trees would presently meet the requirement of this section of the Act. The intention of the Act is to clearly identify and protect trees of significance and I consider that such clear identification is necessary to make the rules fair and transparent.
- 4.21 The report provided by Mr Fielding-Cotterell also addresses this matter and concludes that “*item 73, “the protection of all trees located within the road reserve” should be removed, and that only significant individual trees or fine avenues or groves of trees*

¹⁵ Submission 639, point 74 (as opposed by further submissions F3 from the Oil Companies, F5 from Transpower, and F16 from TrustPower, and supported by further submissions F65 from Ashburton Licensing Trust, F71 from Electricity Ashburton, and F80 from Federated Farmers).

¹⁶ Submission 635, point 26.

¹⁷ Appendix 12-4, ID 73.

within the road reserve or open space land, be listed for protection in Appendix 12-4 of the District Plan (as part of a future plan change process)”.

- 4.22 I agree with this view and recommend that protected tree item 73 be removed from the District Plan and that the Council reconsider this issue further in any future identification of protected trees.

Section 12.7.1: Permitted Activities

- 4.23 The submission from the Canterbury District Health Board¹⁸ is concerned about the rules for activities above and below ground close to protected trees and seeks that the 10m setback be altered to 5m¹⁹. The submitter is concerned that a 10m distance places unnecessary restriction on site development options.
- 4.24 It is important to note that different species of trees have different root systems and thus can be affected differently by activities close to them. These rules act as triggers for consideration and it may be the case that, depending on the type of tree, activity quite close to the trunk may continue to be acceptable without causing adverse effects to the tree (leading to the granting of a resource consent). However, it is important to keep the rule at a general level that enables consideration of activities that could cause harm to ensure that they do not.
- 4.25 Mr Fielding-Cotterell (see Appendix Three) has considered the appropriate setback and agrees that 10m remains an appropriate distance within which proposals should be considered. I support this opinion and do not consider that any change to the setback should be made.
- 4.26 The submission from the Ashburton District Council²⁰ seeks to add an exception to the permitted activity clause e) as it relates to maintenance trimming. It is sought that the exception allow for other maintenance trimming, beyond that provided for in the rule, where works are in accordance with a Management Plan approved by Council and subject to the approval of the relevant property owner(s). The reasoning behind this provision is to enable management plans to be developed and approved that would allow the Council’s Parks department to undertake maintenance works to protected trees, as a service to landowners.
- 4.27 This is considered to be an appropriate step to reduce the impact of normal maintenance on owners of properties containing protected trees. I understand that the Council’s Parks department have undertaken such a service for many years and it would be unfortunate for the new provisions to have a significant impact on this process. I do however note that to be fair to the community and ensure an appropriate process is maintained, this practice needs to be a transparent and robust process where the management plan/s go through a process of being approved by Council. This ensures that they are appropriately developed and considered to ensure protection of the value of the trees. I recommend that this exception be added to the rule.

¹⁸ Submission 484, point 2.

¹⁹ Clause 12.7.1 f).

²⁰ Submission 639, point 96 (and opposed by further submission F71 from Electricity Ashburton Ltd).

- 4.28 In relation to the opposition expressed by Electricity Ashburton, I understand from the submission that this relates to concerns over the inclusion of road reserve trees and this is covered elsewhere in this report.
- 4.29 The submission from Telecom NZ Ltd²¹ seeks that minor trimming of protected trees where they are interfering with telecommunication lines be a permitted activity rather than controlled. Currently the Plan includes a controlled activity provision for “*e) Trimming of trees by Network utility operators where the tree or parts of the tree interfere with legally established utility networks and the security of supply*”.
- 4.30 I note that this clause currently goes beyond telecommunication lines to cover all network utilities e.g. power lines. This clause is intended to deal with normal trimming operations and there are provisions under both the RMA and other legislation to deal with emergency situations. I do however acknowledge that many may be unaware of such provisions.
- 4.31 Mr Fielding-Cotterell (see Appendix Three) has considered the issue raised and considers that the general trimming of trees by utility operators should remain a controlled activity. He does however acknowledge that emergency situations may be different and should have a permitted activity rule. He suggests the following be added:
- In emergency situations, where a protected scheduled tree or any part thereof, presents an immediate hazard to utilities, services, persons or property, and a Council approved arborist is not available without delay; immediate action can be taken to eliminate or abate the hazard by any safe means, but restricting the work to only that which is necessary, and provided that within five (5) working days of the action being taken, the Council is notified in writing of the action taken and provided with proof of the urgency.*
- 4.32 I agree with Mr Fielding-Cotterell’s approach and agree that normal works should be the subject of consent, but emergency works should be treated differently. I recommend the inclusion of this additional clause within the list of permitted activities.
- 4.33 The submission from the Department of Conservation²² provides support for section 12.7.1. This support is acknowledged.

Section 12.7.2: Controlled Activities

- 4.34 The submission from Transpower NZ²³ notes that the wording of the controlled activity provision mistakenly refers to restricted discretion and seeks that it be amended to refer to matters of control. I agree with this request and consider that this needs to be changed.
- 4.35 The Transpower submission goes on to seek clarification that controlled activity clause e) only relates to listed trees²⁴. I agree that this is useful clarification but suggest that

²¹ Submission 543, point 20 (and supported by further submission F71 from Electricity Ashburton Ltd).

²² Submission 638, point 47 (and opposed by further submission F71 from Electricity Ashburton Ltd).

²³ Submission 61, point 62

²⁴ Submission 61, point 63 (and supported by further submission F71 from Electricity Ashburton Ltd).

the added wording should relate to listed Protected Trees rather than just listed trees for further clarity.

- 4.36 The submission from the Department of Conservation²⁵ provides support for section 12.7.2. This support is acknowledged.

Section 12.7.3: Restricted Discretionary Activities, Section 12.7.4: Discretionary Activities, and Section 12.7.5: Non-complying Activities

- 4.37 The submission from the Department of Conservation²⁶ provides support for sections 12.7.3 and 12.7.5. This support is acknowledged.

Section 12.8: Site Standards

- 4.38 The submission from Gary Robert and Ruth Ansenne Fail²⁷ seeks “*More rules regarding the Council's maintenance obligations with regards to heritage trees*”. This submission relates to the desire for greater clarity of process where work is necessary on protected trees.
- 4.39 I understand the submitters concerns, however it is not possible within a District Plan rule framework to provide for policy and process which can differ from situation to situation. I do not consider there are any amendments appropriate to the District Plan to remedy this issue, but I strongly recommend that Council develop an internal policy and procedure document to deal with this issue, in consultation with owners of properties containing protected trees, and make this available to all affected parties.
- 4.40 The submission from Electricity Ashburton Ltd²⁸ seeks to ensure that the impact of the rules is in line with the intentions of the objective/policy. I consider that the rules are aligned with the policy framework.

Section 12.9: Assessment Matters

- 4.41 The submissions from Transpower NZ and Electricity Ashburton Ltd²⁹ both support the assessment matters and in particular assessment matter 12.9.2 d). Electricity Ashburton seeks confirmation that utilities are included under the definition of “services”. While not specifically defined in this way in the Plan, I consider it is quite clear from the wording of the assessment matter that services are intended to cover the types of facilities provided by utility companies (lines, pipes etc). Should the Panel consider this not be sufficiently clear, it would be possible to change the word “services” to read “utilities”.

Section 12: Appendices - General

- 4.42 The submission from Martin J Nordquist³⁰ states that with GPS technology, perhaps Council should consider identifying trees when they are planted. I agree that with

²⁵ Submission 638, point 48.

²⁶ Submission 638, points 49 and 51.

²⁷ Submission 525, point 1.

²⁸ Submission 635, point 19.

²⁹ Submission 61, point 64 and submission 635, point 27.

³⁰ Submission 45, point 1.

technology advances such identification is now much easier and the Council may decide in future to identify protected trees through GPS referencing. However, I do not consider it is appropriate to identify all commemorative trees in the District Plan at the time of their planting as these trees may not meet the values criteria as set out in the District Plan.

Section 12: Appendices – Appendix 12-4: Schedule of Protected Trees

- 4.43 As discussed above in paragraphs 4.23 to 4.25, the Canterbury District Health Board have requested amendment to Table 12-4. This table is a reflection of the rules contained in sections 12.7.1-12.7.5 and thus changes to this table would only need to be made if changes to the rules were determined to be necessary. In relation to the Health Board’s submission I do not recommend that the rules be changed (see discussion above), and therefore there is no need to change Table 12-4.
- 4.44 The submission from Warren Jowett³¹ seeks to “*Add native trees in rural areas - examples include the large totara at Lawn Hayes, kahikatea and lowland ribbonwood (Ross Cottage) and carry out a survey of significant native specimen trees in rural areas of the District*”. Similarly the submission from Alan Bruce Totty³² seeks the identification of local indigenous solitary trees and also uses the example of the totara at Lawn Hayes.
- 4.45 I agree that it would be desirable for the Council to carry out a process of considering significant trees on a District wide scale. This could be done in a range of ways including a survey or a public request for nominations. However, this is not a process that is easily done at this stage of the preparation of the District Plan as it would require some time to complete and a separate process of consultation with interested parties and landowners. Without specific requests for the inclusion of particular trees within these submissions (that would enable other parties to have involvement through the further submission process), I cannot recommend that any additions be made to the list of protected trees at this time. However, I do recommend that the Council consider their options for pursuing this issue outside the current District Plan review process e.g. possibly leading to a future plan change. Mr Fielding-Cotterell also agrees that such a project would be beneficial as a future task for the Council.
- 4.46 The submission from Bruce Conway McClelland³³ seeks the removal of tree ID16 (Copper Beech, 38 Carters Tce, Ashburton) from the list of protected trees. This request is based on a view by the owners of this property that the listing of the tree places unreasonable restrictions and/or unreasonable future costs on the owners.
- 4.47 Mr Fielding-Cotterell has undertaken an assessment of this tree and considered both the values it exhibits and the potential impacts it could cause on the use of the site. Overall, Mr Fielding-Cotterell considers “*In my opinion, the beech is a fine healthy specimen that makes a significant contribution to the landscape values of the site and the neighbourhood generally. It is most worthy of protection and if due care is taken in any future development of the site, it should continue to provide an attractive arboreal feature for many years to come. Having regard for all the factors and points scored under*

³¹ Submission 21, point 2.

³² Submission 294, point 6.

³³ Submission 517, point 1.

the evaluation system, I agree that the copper beech is an excellent specimen and entirely worthy of inclusion in the protected tree schedule of the District Plan.”

- 4.48 Based on Mr Fielding-Cotterell’s advice, I do not recommend that the tree be removed from the schedule of protected trees in the District Plan.
- 4.49 Submissions from Gabites Ltd, Gabites Trustees Ltd and Philip Dallas Bean³⁴ all seek the removal of trees ID6 (Copper Beech and Weeping Elm, 96 Burnett St, Ashburton) from the list of protected trees. These requests are based on the imposition of restrictions on potential commercial development of the property.
- 4.50 Mr Fielding-Cotterell has undertaken an assessment of these trees and considered both the values they exhibit and the potential impact they could cause on the use of the site. In relation to the Copper Beech, Mr Fielding-Cotterell has carried out an assessment which indicates that the tree has a score worthy of inclusion in the District Plan, but has noted that the tree is suffering from disease. He concludes *“While I do not believe the beech presents an immediate hazard, in view of the presence of the disease and the future safety considerations, I recommend that the copper beech be removed from the proposed District Plan protected tree schedule”*. In relation to the Weeping Elm however, Mr Fielding-Cotterell has undertaken an assessment that has led to an increase in the score achieved from this tree under the evaluation criteria. He concludes *“Having regard for the points scored under the Council’s Protected Tree Criteria/Evaluation System and the comments provided above, I consider that the weeping elm is entirely worthy of inclusion in the protected tree schedule of the District Plan and that it is feasible to retain it should proposals for the development of the site eventuate”*.
- 4.51 Based on Mr Fielding-Cotterell’s advice, I do recommend that the Copper Beech at this site be removed from the schedule but I do not recommend that the Weeping Elm tree be removed from the schedule of protected trees in the District Plan, and I note a need to alter the evaluation score listed in the appendix to align with Mr Fielding-Cotterell’s assessment.
- 4.52 The submission from Electricity Ashburton Ltd³⁵ seeks to add *“worthy individual Open Space trees within 10m of the Open Space boundaries to the Protected Tree Schedule”*. I agree that it would be desirable for the Council to carry out a process of considering significant trees within Open Space areas. Similarly to a District Wide study discussed above, this could be done in a range of ways including a survey or a public request for nominations. However, this is not a process that is easily done at this stage of the preparation of the District Plan as it would require some time to complete and a separate process of consultation with interested parties and landowners. Without specific requests for the inclusion of particular trees within this submission (that would enable other parties to have involvement through the further submission process), I cannot recommend that any additions be made to the list of protected trees at this time. However, I do recommend that the Council consider their options for pursuing this issue outside the current District Plan review process e.g. possibly leading to a future plan change.

³⁴ Submissions 608, point 3, 609, point 3 and 610, point 3.

³⁵ Submission 635, point 3.

- 4.53 As discussed above in paragraphs 4.17 to 4.22, the submission from Electricity Ashburton³⁶ seeks the removal of trees under ID73 (All trees located within the legal road reserve) from the list of protected trees. This request is based on the high level of uncertainty over which trees this listing is intended to cover. This submission point is also supported by point 29 which notes that as road owner, the Council can place "reasonable conditions" on Network Utility Operators who wish to operate in the road corridor to protect trees.
- 4.54 As discussed above, I recommend that protected tree item 73 be removed from the District Plan and that the Council reconsider this issue further in any future identification of protected trees.

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 above are both effective and efficient and will ensure that the methods contained in this section are the most appropriate method for achieving the objectives of the Plan. I consider that this section of the Plan is appropriate under Part II of the Act in achieving sustainable management within the Ashburton District.

6.0 RECOMMENDATIONS

- 6.1 Based on the discussion above, I consider that, subject to the recommended changes to text set out below, this section of the proposed District Plan should be accepted.

³⁶ Submission 635, point 28.

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

APPENDIX ONE: SUMMARY OF RECOMMENDATIONS ON SUBMISSIONS

Submission number	Organisation	Point number	Decision Sought	Recommendation
S21	Warren Jowett	2	Add native trees in rural areas - examples include the large totara at Lawn Hayes, kahikatea and lowland ribbonwood (Ross Cottage) and carry out a survey of significant native specimen trees in rural areas of the District.	Reject (para 4.44 - 4.45)
S240	Silver Fern Farms	67	No change required to Policy 12.2D.	Accept (para 4.12)
S294	Alan Bruce Totty	6	The identification of individual, local indigenous trees in the District.	Reject (para 4.44 - 4.45)
S45	Martin J Nordquist	1	With GPS technology, perhaps Council should consider identifying trees when they are planted.	Reject (para 4.42)
S484	Canterbury District Health Board	2	Oppose the heritage tree use of land criteria listed in Table 12.4, and seek a potential alternative setback of 5 metres for impervious surfacing, paving and buildings from the base of trees.	Reject (para 4.23 - 4.25 and 4.43)
S484	Canterbury District Health Board	3	Such further or other relief, including consequential or alternative amendments to these and other relevant provisions of the Proposed Ashburton District Plan, that may be required to give effect to this submission.	Reject
S517	Bruce Conway McClelland	1	Remove tree ID16 from the list of Heritage Trees	Reject (para 4.46 - 4.48)
S517	Bruce Conway McClelland	2	Do not proceed with any changes to heritage trees.	Reject (para 4.3)
S517	Bruce Conway McClelland	3	A fully implemented maintenance programme, agreed to by all concerned parties and funded by Council.	Accept in part (para 4.14)
S525	Gary Robert and Ruth Ansenne Fail	1	More rules regarding the Council's maintenance obligations with regards to heritage trees.	Reject (para 4.38 - 4.39)
S543	Telecom New Zealand Ltd	20	That the minor trimming of any protected tree, by a certified arborist, is a permitted activity where the branches are interfering with the telecommunication lines. This could be achieved by inserting the following rule into 12.7.1 Permitted Activities after Rule 12.7.1(e):	Accept in part (para 4.29 - 4.32)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
			The minor trimming of any protected tree, by a qualified arborist is a permitted activity. For the purpose of this rule, minor trimming shall mean the removal of branches to the extent that they are interfering with telecommunication facilities and will not adversely affect the health or appearance of the protected tree. There may however, be other methods of achieving the stated relief.	
F71	Electricity Ashburton Limited	20	Support	Accept in part (para 4.29 - 4.32)
S608	Gabites Limited	3	Remove item 6 on 96 Burnett St Copper Beech and Weeping Elm trees from section 12, appendix 12-4 page 12-38	Accept in part (para 4.49 - 4.51)
S609	Gabites Trustees Limited	3	Remove item 6 on 96 Burnett St Copper Beech and Weeping Elm trees from section 12, appendix 12-4 page 12-38	Accept in part (para 4.49 - 4.51)
S610	Philip Dallas Bean	3	Opposes the protected tree status at 96 Burnett Street.	Accept in part (para 4.49 - 4.51)
S61	Transpower New Zealand	1	Amend the Proposed Plan to make all required changes, including those specific submissions detailed below, to ensure: <ul style="list-style-type: none"> - that the NPSET and NESETA is given effect to - the sustainable management of the National Grid as a physical resource - Appropriate provision for the on-going operation and maintenance of the network, including ensuring that lines can be accessed - that the existing network can be upgraded in order to meet growth in energy demand - the protection of the existing network from issues of reverse sensitivity and the effects of others activities - the protection of neighbouring activities from the effects of the National Grid; and -appropriate provision to facilitate planning and development of new lines. Adopt any other such relief, including additions, deletions or consequential amendments necessary as a result of the matters raised in these submissions, as necessary to give effect to this submission.	Reject (para 4.4)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
F16	TrustPower Limited	1	Support	Reject (para 4.4)
F71	Electricity Ashburton Limited	1	Support	Reject (para 4.4)
F75	Royal Forest and Bird Protection Society of New Zealand Inc.	1	Oppose	Accept in part (para 4.4)
F80	Federated Farmers	1	Oppose	Accept in part (para 4.4)
S61	Transpower New Zealand	58	Make changes as required throughout Chapter 12 to ensure that policy and regulatory provisions clearly relate only to listed Heritage Items and Protected Trees.	Accept in part (para 4.8)
F20	New Zealand Historic Places Trust	58	Oppose	Accept in part (para 4.8)
F71	Electricity Ashburton Limited	58	Support	Accept in part (para 4.8)
S61	Transpower New Zealand	59	<p>Introduce a new objective and policy to recognise that heritage sites and protected trees should be identified and taken into account as part of the route selection process, when arriving at the most appropriate line route. This could be achieved by introducing a new objective and associated policies along the following lines:</p> <p>Objective: To ensure that the route, site and/or method selection process for new high voltage electricity transmission lines avoids, to the extent practicable, identified historic heritage or protected trees.</p> <p>Policy: New high voltage electricity transmission infrastructure should only traverse identified historic heritage or protected trees where an alternative placement of the infrastructure is subject to a significant functional constraint or where there is no practicable alternative route and/or where significant localised adverse effects are outweighed by the overall benefits of the proposal.</p>	Reject (para 4.9 - 4.10)
S61	Transpower New Zealand	61	Introduce a new policy to Section 12.2 (Protected Trees) to recognise that the purpose of the works and the risks of not undertaking the works are a relevant consideration in making decisions affecting	Accept in part (para 4.11)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
			identified Protected Trees. This could be achieved by adding a policy drafted along the following lines: To avoid, remedy or mitigate significant adverse effects on identified Protected Trees by managing the scale, location, design and intensity of subdivision, use and development in and around those features, while considering the purpose of and the need for the proposed works.	
F12	Department of Conservation	61	Support	Accept in part (para 4.11)
S61	Transpower New Zealand	62	Amend Rule 12.7.2- Controlled Activities so that it relates to controlled activities rather than restricted discretionary activities. This could be achieved as follows: The following activities shall be Controlled Activities, provided that they are not listed as Restricted Discretionary or Discretionary Activity, with control retained over the exercise of the Council's discretion being restricted to the matter(s) specified in the assessment matters.	Accept (para 4.34)
S61	Transpower New Zealand	63	Amend Controlled Activity Rule 12.7.2(e) - Trimming of trees by Network Utility Operators where the tree or parts of the tree interfere with legally established utility networks and the security of supply, so that the Rule clearly relates to the trimming of protected trees and not to trees generally. This could be achieved as follows (additional text underlined): e) Trimming of listed trees by Network Utility Operators where the tree of parts of the tree interfere with legally established utility networks and the security of supply.	Accept in part (para 4.35)
F71	Electricity Ashburton Limited	63	Support	Accept in part (para 4.35)
S61	Transpower New Zealand	64	Retain, without modification, Assessment Matter 12.9.2(d): d) Whether the tree is currently causing, or likely to cause, significant damage to buildings, services or property, whether public or privately owned.	Accept (para 4.41)
S635	Electricity Ashburton Limited	3	Add worthy individual Open Space trees within 10m of the Open Space boundaries to the Protected Tree Schedule.	Reject (para 4.52)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
S635	Electricity Ashburton Limited	18	Retain Section 12.1 as proposed.	Accept (para 4.5)
S635	Electricity Ashburton Limited	19	Ensure the impact of the Protected Tree rules under Objective 12.2.2 is in line with the intentions of the objective and policies.	Accept (para 4.7 and 4.40)
S635	Electricity Ashburton Limited	20	Retain Objective 12.2 as proposed.	Accept (para 4.12)
S635	Electricity Ashburton Limited	21	Retain Policy 12.2B as proposed.	Accept (para 4.12)
S635	Electricity Ashburton Limited	22	Retain Policy 12.2D as proposed.	Accept (para 4.12)
S635	Electricity Ashburton Limited	24	Retain Method of Implementation 12.5 second to last bullet point as proposed.	Accept (para 4.13)
S635	Electricity Ashburton Limited	25	Retain Reason for Rule 12.6.2 as proposed.	Accept (para 4.15)
S635	Electricity Ashburton Limited	26	Ensure that the rules and site standards under 12.7 are not excessively restrictive and place unnecessary administrative processes in the way of reasonable and practical processes that appear to be operating successfully at present.	Accept (para 4.17 - 4.22)
S635	Electricity Ashburton Limited	27	No change required to 12.9.2 d) other than to confirm that utilities are included under the definition of "services".	Accept (para 4.41)
S635	Electricity Ashburton Limited	28	Remove Item 73 from Schedule 12-4 and identify any roadside tree worthy of inclusion individually as an item in the schedule.	Accept (para 4.53 - 4.54)
S635	Electricity Ashburton Limited	29	As the road owner, the Council currently have full control over the methods used to access the road corridor and can place "reasonable conditions" on Network Utility Operators who wish to operate in the road corridor. Using the existing powers and some better internal systems/processes it is likely that the desired outcomes can be achieved without any rules relating to protecting trees in the road corridor.	Accept (para 4.53 - 4.54)
S638	Department of Conservation	45	Retain the wording of Objective 12.2 in its current form.	Accept (para 4.12)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
S638	Department of Conservation	46	Retain the wording of Policy 12.2D in its current form.	Accept (para 4.12)
S638	Department of Conservation	47	Retain the wording of Section 12.7.1 in its current form.	Accept (para 4.33)
F71	Electricity Ashburton Limited	47	Oppose	Reject (para 4.33)
S638	Department of Conservation	48	Retain the wording of Section 12.7.2 in its current form.	Accept (para 4.36)
S638	Department of Conservation	49	Retain the wording of Section 12.7.3 in its current form	Accept (para 4.37)
S638	Department of Conservation	51	Retain the wording of Section 12.7.5 in its current form.	Accept (para 4.37)
S639	Ashburton District Council	74	Changes may be required to the structure of rules in all Zones to provide clarification and avoid any contradiction/confusion over the interpretation of rules.	Reject (para 4.16)
F3	Greenstone Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd, Chevron NZ	74	Oppose	Accept (para 4.16)
F5	Transpower New Zealand	74	Oppose	Accept (para 4.16)
F16	TrustPower Limited	74	Oppose	Accept (para 4.16)
F65	Ashburton Licensing Trust	74	Support	Reject (para 4.16)
F71	Electricity Ashburton Limited	74	Support	Reject (para 4.16)
F80	Federated Farmers	74	Support	Reject (para 4.16)
S639	Ashburton District Council	75	References to external documents in the Proposed District Plan should be made more explicit.	Reject (para 4.6)
F80	Federated Farmers	75	Support	Reject (para 4.6)

PROPOSED ASHBURTON DISTRICT PLAN – HEARINGS REPORT 11
SECTION 12: PROTECTED TREES

Submission number	Organisation	Point number	Decision Sought	Recommendation
S639	Ashburton District Council	96	<p>12.7.1 Permitted Activities The following activities shall be Permitted Activities, provided that they comply with any specified standards:</p> <p>e) Maintenance trimming of any listed tree is permitted where it meets the following:</p> <ul style="list-style-type: none"> • involves trimming foliage in the bottom third of the tree only, and • only branches 50mm in diameter or less may be trimmed, and • trimming is by the use of non-mechanical means (i.e handsaw, secateurs or loppers, no chainsaws). <p>Except that the criteria for maintenance trimming shall not apply where works are in accordance with a Management Plan approved by Council and subject to the approval of the relevant property owner(s).</p>	Accept (para 4.26 - 4.27)
F71	Electricity Ashburton Limited	96	Oppose	Reject (para 4.26 - 4.28)

APPENDIX TWO: DISTRICT PLAN AMENDMENTS

Section 12: Heritage Values and Protected Trees

Amend 12.7.1 as follows:

...

e) Maintenance trimming of any listed tree is permitted where it meets the following:

- involves trimming foliage in the bottom third of the tree only, and
- only branches 50mm in diameter or less may be trimmed, and
- trimming is by the use of non-mechanical means (i.e handsaw, secateurs or loppers, no chainsaws).

Except that the criteria for maintenance trimming shall not apply where works are in accordance with an appropriately developed, effects based Management Plan approved by Council and subject to the approval of the relevant property owner(s).

...

g) In emergency situations, where a protected scheduled tree or any part thereof, presents an immediate hazard to utilities, services, persons or property, and a Council approved arborist is not available without delay; immediate action can be taken by a utility operator to eliminate or abate the hazard by any safe means, but restricting the work to only that which is necessary, and provided that within five (5) working days of the action being taken, the Council is notified in writing of the action taken and provided with proof of the urgency.

Section 12: Heritage Values and Protected Trees

Amend 12.7.2 as follows:

The following activities shall be Controlled Activities, provided that they are not listed as a Restricted Discretionary or Discretionary Activity, ~~with the exercise of the Council's discretion being restricted to the matter(s) with the matter(s) to which Council has limited its control~~ specified in the assessment matters:

...

Section 12: Heritage Values and Protected Trees

Amend 12.7.2 as follows:

e) Trimming of listed Protected Trees by Network utility operators where the tree or parts of the tree interfere with legally established utility networks and the security of supply.

Section 12: Heritage Values and Protected Trees

Add an additional assessment matter to 12.9.2 as follows:

k) Consideration of the purpose of and need for the proposed works, particularly in relation to proposed infrastructure, servicing or utility works, including consideration of alternatives, functional constraints, and the wider benefits of a proposal.

Section 12: Heritage Values and Protected Trees

Amend Appendix 12-4: Schedule of Protected Trees as follows:

DISTRICT PLAN ID NUMBER	TREE DESCRIPTION		LOCATION	LEGAL DESCRIPTION	DISTRICT PLAN MAP NUMBER	EVALUATION SCORE
...						
6.	Fagus sylvatica purpurea Ulmus glabra "Pendula"	Copper Beech Weeping Elm	96 Burnett St, Ashburton	TS 146, Pt 136, 137, 147	U53	34 34-58
...						
73.	Road reserve trees		All trees located within the legal road reserve.	Legal road reserves	Various	34

APPENDIX THREE: ARBORICULTURAL REPORT FROM WALTER FIELDING-COTTERELL

ASHBURTON DISTRICT PLAN REVIEW – PROTECTED TREES

REPORT ON MATTERS RAISED IN SUBMISSIONS

INTRODUCTION

1. My name is Walter Fielding – Cotterell. Until my (semi) retirement in January 2006 I was employed as City Arborist for Christchurch City Council, a position I held for thirty-one (31) years. Since then I have been employed as a consultant arborist to Selwyn District Council as well as acting as a consultant for commercial businesses, landscape architects and private members of the public.
2. I have spent my whole working career (55 years) engaged in forestry, urban forestry and tree surgery/arboriculture.
3. My qualifications are: Royal Forestry Society, Woodmans Certificate (U.K.) and City and Guilds London Foremans Certificate in Tree Surgery (U.K.). I maintain currency with my profession through my membership with the International Society of Arboriculture and the New Zealand Arboricultural Association. I received the N.Z. Arboricultural Association's Ronald Flook award in 2002 for my contribution to the field of arboriculture, and have also been granted a life membership of the Association.
4. From the beginning of my employment with the Christchurch City Council in 1974 through to my current employment with Selwyn District Council, part of my duties has involved the provision of professional advice on all aspects of tree protection and evaluation of trees proposed to be protected under their District Plans.
5. The Protected Tree Criteria/ Evaluation System included in the proposed revision of the Ashburton District Plan is based on the one I originally devised for the Christchurch City Plan as notified in 1995 and is still in use, and on the model recently adopted for the Selwyn District Plan.
6. This report has been commissioned by the Ashburton District Council in accordance with Section 42A of the Resource Management Act to consider the proposed Ashburton District Plan 2010 – Schedule of Protected Trees and associated provisions.
7. In this report I have provided comments on the submissions received, assessments of the trees/items that have been recommended for inclusion or deletion, and general information on tree protection and maintaining the health of protected trees.

SUBMISSIONS RECEIVED

8. A total of seven (7) submissions were received on this section of the proposed District Plan, which I have been asked to review. With regard to these submissions I have provided comments in relation to the following:
- **J. C. and BC McClelland** – who oppose the proposed listing in the District Plan protected tree schedule of the *Fagus sylvatica purpurea* (copper beech) at 38 Carters Terrace, Ashburton.
 - **Gabilities Ltd.** – who oppose the inclusion in the protected tree schedule of the *Fagus sylvatica purpurea* (copper beech) and *Ulmus glabra* ‘Pendula’ (weeping elm) at 96 Burnett Street, Ashburton.
9. Aspects of the following submissions are also discussed and explained:
- **Electricity Ashburton Ltd.** – who propose that worthy individual Open Space trees within 10 metres of the Open Space boundaries be added to the Protected Tree Schedule, and oppose the proposed protection of all trees located within the legal road reserve.
 - **Mr. Alan Totty** – who proposes that local individual indigenous trees in the district be evaluated for protection under the District Plan Review.
 - **Mr. Warren Jowett** – who proposes that native trees in rural areas be protected including the large totara tree at the Lawn Hayes property, also a kahikatea and lowland ribbonwood at Ross Cottage. Both properties are at Staveley.
 - **Canterbury District Health Board** - who oppose the District Plan rule relating to construction and works within 10 metres or the crown periphery (dripline) of the base of protected trees (Canterbury District Health Board).
 - **Telecom New Zealand Ltd.** - who oppose the District Plan rule 12.7.1 relating to the maintenance trimming of listed protected trees and propose that this rule be amended to cater for any interference with telecommunication facilities, and seek to include provision for emergency protected tree work in District Plan rules.

ANALYSIS OF SUBMISSIONS

ID number 16: *Fagus sylvatica purpurea* (Copper beech), 38 Carters Terrace, Ashburton

Issues raised by submitters

10. The McClellands have stated their concerns that the protection of the beech will place unreasonable restrictions on the development of the section for housing and

an unreasonable burden of future tree related costs for the maintenance of a house and the tree itself.

Evaluation

- 11. The District Plan Review, as notified, has identified the copper beech as being worthy of inclusion in Appendix 12-4, the Schedule of Protected Trees.
- 12. The Council has evaluated the quality of the beech using the Protected Tree Criteria Evaluation System set down in Appendix 12-5 of the District Plan. The Council's scoring against the particular factor value statements in the evaluation system are shown as follows:

<p>Heritage/historic – Value rating: <i>None</i> = Score of 0 points.</p> <p>Scientific/botanical – Value rating: <i>Rare throughout Ashburton District</i> = Score of 4 points.</p> <p>Importance of position in landscape – Value rating: <i>Fine avenue or street plantings or tree/s growing in areas where other large trees are scarce</i> = Score of 8 points.</p> <p>Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: <i>No special cultural, social, ethical or spiritual values</i> = Score of 0 points.</p> <p>Size – Value rating: <i>Large – 150m² to 250m² or largest tree in locality</i> = Score of 8 points.</p> <p>Age - Value rating: <i>50 to 100 years</i> = Score of 4 points.</p> <p>Form and condition – Value rating – <i>Good form, healthy condition, making good growth or interesting character</i> = Score of 8 points.</p> <p>Suitability in relation to setting or site conditions – Value rating: <i>Tree not obscuring or injuriously affecting any buildings, objects structures, services or utilities. No significant negative values</i> = Score of 4 points.</p> <p>Functional value – Value rating: <i>No functional value</i> = Score of 0 points.</p> <p style="text-align: right;">Total = 36 points</p>

- 13. The Council used a minimum of 30 points as a guideline when assessing the suitability of trees for protection.
- 14. I visited the tree on 20 April 2011, and evaluated the tree as follows:

<p>Heritage/historic – Value rating: <i>None</i> = Score of 0 points.</p>
--

Scientific/botanical – Value rating: *Few good specimens of particular species in particular township* Score of 2 points.

Importance of position in landscape – Value rating: *Fine avenue or street plantings or tree/s growing in areas where other large trees are scarce* = Score of 8 points.

Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: *No special cultural, social, ethical or spiritual values* = Score of 0 points.

Size – Value rating: *Very large 250m² or more. Very large specimen or trunk diameter exceptionally large for particular species or grove of trees*= Score of 16 points.

Age - Value rating: *50 to 100 years* = Score of 4 points.

Form and condition –.Value rating – *Good form, healthy condition, making good growth or interesting character* = Score of 8 points.

Suitability in relation to setting or site conditions – Value rating: *Tree not obscuring or injuriously affecting any buildings, objects structures, services or utilities. No significant negative values* = Score of 4 points.

Functional value – Value rating: *No functional value* = Score of 0 points.

Total = 42 points

Analysis

15. As no accurate measurements are recorded for the tree, I measured the tree myself on 20 April 2011 and found it to be of the following dimensions:
Height: 22.0 metres
Mean crown diameter: 23 metres
Diameter breast height: 1610 millimetres
16. In the District Plan criteria evaluation system, the size of a tree is determined by multiplying its height by the mean crown diameter, giving an overall size in square metres. Therefore, by calculating 22 metres x 23 metres the size of the copper beech is 506m². This places the tree in the “very large” category for trees of 250m² or more. Trees in this category score 16 points as indicated in my evaluation table.
17. The Council’s evaluation of the copper beech placed it in the 150m² to 250m² category where it gained a point score of 8 points, eight points less than my score of 16 for the tree.
18. The Council’s evaluation of the beech under the scientific / botanical factor placed the copper beech in the Rare throughout Ashburton District category where it scored 4 points.

19. In my opinion, the species *Fagus sylvatica purpurea* is a popular, frequently planted tree and does not merit inclusion in the factor category intended to record rare or botanically unusual tree species. However, it is a particularly good specimen of a copper beech, therefore I believe that the tree should be included in the “few good specimens of particular species in particular township” category where it scores 2 points.
20. Apart from the above two instances, the factor scoring is the same.
21. The evaluations of the beech are compared as follows:
Council evaluation score = 36 points
Fielding – Cotterell score= 42 points
22. Subdivision consent was previously granted in 11 March 2008 for the site at 38 Carters Terrace, to create two allotments of 922m² and 800m², with the application specifying that the beech would be retained. The Council has informed me that subsequently 38 Carters Terrace has been the subject of an application for resource consent to remove the beech allowing for a dwelling on the northern part of the site. The Council has received reports in relation to the proposed development of the site from Landscape architect, Graham Densem and arborist, Lyall Jemmett (these reports are available to view if requested). After the receipt of both reports, a meeting was held with the landowner who then agreed to amend the plans and accommodate a house within the curtilage while retaining the tree. The Council is still awaiting amended plans and until these are received, the Council is unable to proceed with processing the application.
23. Whatever the final design and position of the dwelling(s) on the site, the following will need to be considered:
 - From the crown periphery of the beech to the Grove Street road boundary of the property is a distance of approximately sixteen (16) metres. The crown of the beech therefore covers a substantial area of the section. Locating a building partially under the crown of the tree would require it be pruned to elevate it above the roof, the extent of which will depend on the building’s final design and height. Leaves nuts and twigs will inevitably fall on the roof of the building, requiring periodic clearing of accumulated debris, particularly in the autumn season.
 - The risk of larger branches falling and damaging the roof is low as the wood of European beech is very strong and has a low risk of branch breakage even in extreme weather events.
 - Normal general maintenance pruning will be required from time to time. However, beech trees do not suffer from a great deal of branch die-back or rapid production of new shoot growth. This, combined with the fact that the tree is old and making very little growth overall means that general

maintenance pruning may only be need to be carried out at intervals of five to ten years.

- The Council provides a service for maintaining protected trees free of charge, provided the work involved is for the health, safety and/or appearance of the tree.
 - With regard to the impact of building or other site construction work on the tree, European beech trees are extremely susceptible to root damage or ground changes in the their vicinity. The roots of the beech will extend well beyond the crown periphery (drip-line) most being within a depth of 300 millimetres. Locating the building under the tree's crown has the potential of causing major damage by way of roots being severed or damaged in the course of soil excavation work required for the laying of standard concrete block foundations.
 - Should it be decided to construct a dwelling beneath the crown, constructing a house on raised pile foundations would greatly reduce direct mechanical damage to the tree's root system. It would also reduce the equally damaging long term impact of compaction and reduced soil aeration by covering the root zone with impervious materials.
 - Underground services to the house should preferably be positioned outside the crown periphery, or if within, installed by underground drilling or thrusting methods.
24. In my opinion, the beech is a fine healthy specimen that makes a significant contribution to the landscape values of the site and the neighbourhood generally. It is most worthy of protection and if due care is taken in any future development of the site, it should continue to provide an attractive arboreal feature for many years to come.
25. Having regard for all the factors and points scored under the evaluation system, I agree that the copper beech is an excellent specimen and entirely worthy of inclusion in the protected tree schedule of the District Plan.

ID Number 6: *Fagus sylvatica purpurea* (copper beech & *Ulmus glabra pendula* (weeping elm), 96 Burnett Street, Ashburton.

Issues raised by submitters

26. Gabities Ltd. opposes the inclusion of the copper beech and weeping elm in the protected tree schedule in the District Plan for the reason that it will impose excessive restrictions on the commercial development of the property.
27. The District Plan review, as notified, has identified the copper beech and weeping elm as being worthy of inclusion in Appendix 12-4, the Schedule of Protected

Trees. The Council has evaluated the quality of the two trees using the Protected Tree Criteria/Evaluation System set down in Appendix 12-5 of the District Plan.

Evaluation – Copper beech

28. The Council’s scoring against the particular factor value statements in the evaluation system are shown as follows:

<p>Fagus sylvatica purpurea - Copper beech</p> <p>Heritage/historic – Value rating: <i>None</i> = Score of 0 points</p> <p>Scientific/botanical – Value rating: <i>Few good specimens of particular species in particular township or local community</i> = Score of 2 points.</p> <p>Importance of position in landscape – Value rating: <i>Roadside or park tree or trees in well frequented public place or private property</i> = Score of 4 points.</p> <p>Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: <i>No special cultural, social, ethical or spiritual values</i> = Score of 0 points.</p> <p>Size – Value rating: <i>Large – 150m² to 250m² or largest tree in locality</i> = Score of 8 points.</p> <p>Age - Value rating: <i>50 to 100 years</i> = Score of 4 points.</p> <p>Form and condition – Value rating – <i>Good form, healthy condition, making good growth or interesting character</i> = Score of 8 points.</p> <p>Suitability in relation to setting or site conditions – Value rating: <i>Good juxtaposition and harmony with important buildings, objects, structures and essential services or utilities.</i> = Score of 8 points</p> <p>Functional value – Value rating: <i>No functional value</i> = Score of 0 points.</p> <p style="text-align: right;">Total = 34 points</p>

29. The Council used a minimum of 30 points as a guideline when assessing the suitability of trees for protection.

30. I visited the tree on 20 April 2011, and evaluated the tree as follows:

<p>Fagus sylvatica purpurea - Copper beech</p> <p>Heritage/historic – Value rating: <i>Trees intrinsically associated with historic/heritage buildings</i> = Score of 16 points</p>

Scientific/botanical – Value rating: *No special scientific or botanical value* = Score of 0 points.

Importance of position in landscape – Value rating: *Roadside or park tree or trees in well frequented public place or private property* = Score of 4 points.

Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: *No special cultural, social, ethical or spiritual values* = Score of 0 points.

Size – Value rating: *Very large 250m² or more* = Score of 16 points.

Age - Value rating: *50 to 100 years* = Score of 4 points.

Form and condition – Value rating – *Dying, dead, diseased, unbalanced, bad structural defects or dangerous and cannot be rectified* = Score of 0 points.

Suitability in relation to setting or site conditions – Value rating: *Good juxtaposition and harmony with important buildings, objects, structures and essential services or utilities.* = Score of 8 points

Functional value – Value rating: *No functional value* = Score of 0 points.

Total = 48 points

Analysis

31. As no accurate measurements are recorded for the Copper beech, I measured the tree myself on 20 April 2011 and found it to be of the following dimensions:
Height: 19.0 metres
Mean crown diameter: 18.0 metres
Diameter breast height: 980 millimetres
32. In the District Plan criteria evaluation system, the size of a tree is determined by multiplying its height by the mean crown diameter, giving an overall size in square metres. Therefore, by calculating 19.0 metres x 18.0 metres the size of the copper beech is 342m². This places the tree in the “very large” category for trees of 250m² or more. Trees in this category score 16 points as indicated in my evaluation table.
33. A factor not included in the Council’s evaluation of the tree is the fact that the building on the site is protected as a heritage building. The building is identified as a Category B heritage building in the operative District Plan being of interest to the District’s community. The building is also identified as a Group B heritage building in the Proposed District Plan being of historical significance/value to the District. The evaluation system provides for 16 points to be scored when a tree is associated with a heritage building. This factor category has been included in my evaluation record above.

34. The Council's evaluation of the copper beech under the Scientific /botanical factor placed the tree in the Few good specimens of particular species in particular township or community category where it scored 2 points.
35. In my opinion, the species *Fagus sylvatica purpurea* is a popular, frequently planted tree and does not merit inclusion in the factor category intended to record rare or unusual tree species. I believe that the beech should score 0 points in this category.
36. The evaluations of the beech are compared as follows:
Council evaluation score = 34 points
Fielding – Cotterell score = 48 points
37. However, my inspection of the copper beech also found the fruiting bodies (conks/mushrooms) of what appears to be a species of the fungus, *Ganoderma*, emerging from fissures between the trunk buttresses about 200 millimetres above ground level. *Ganoderma* is a butt rot fungus and any sign of the disease (in three places around the trunk in this case) is usually an indication that the trunk is badly affected by decay. Drilling into the trunk with a small diameter drill in the vicinity of the fruiting bodies, I found that the trunk was in fact affected by internal decay, although the full extent was not explored at the time.
38. The conductive tissues on the outer parts of the trunk can still function reasonably well despite the decay taking place internally which is why the tree's foliage and bark still appears to be quite healthy. However, *Ganoderma* is one of the most damaging fungal species and will eventually render the tree unsafe. There is no cure for this disease. Because of this disease, I gave the copper beech a zero score under the "form and condition" factor.
39. While I do not believe the beech presents an immediate hazard, in view of the presence of the disease and the future safety considerations, I recommend that the copper beech be removed from the proposed District Plan protected tree schedule.

Evaluation – Weeping elm

40. The Council's scoring against the particular factor value statements in the evaluation system are shown as follows:

***Ulmus glabra pendula* (Weeping elm)**

Heritage/historic – Value rating: *None* = Score of 0 points

Scientific/botanical – Value rating: *Few good specimens of particular species in particular township or local community* = Score of 2 points.

Importance of position in landscape – Value rating: *Roadside or park tree or trees in well frequented public place or private property* = Score of 4 points.

Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: *No special cultural, social, ethical or spiritual values* = Score of 0 points.

Size – Value rating: *Large – 150m² to 250m² or largest tree in locality* = Score of 8 points.

Age - Value rating: *50 to 100 years* = Score of 4 points.

Form and condition –.Value rating – *Good form, healthy condition, making good growth or interesting character* = Score of 8 points.

Suitability in relation to setting or site conditions – Value rating: *Good juxtaposition and harmony with important buildings, objects, structures and essential services or utilities.* = Score of 8 points

Functional value – Value rating: *No functional value* = Score of 0 points.

Total = 34 points

41. The Council used a minimum of 30 points as a guideline when assessing the suitability of trees for protection.

42. I visited the tree on 20 April 2011, and evaluated the tree as follows:

Heritage/historic – Value rating: *Trees intrinsically associated with historic/heritage buildings* = Score of 16 points

Scientific/botanical – Value rating: *Few good specimens of particular species in particular township or local community* = Score of 2 points.

Importance of position in landscape – Value rating: *Roadside or park tree or trees in well frequented public place or private property* = Score of 4 points.

Cultural, ethical, social, spiritual or to commemorate a personal sacrifice – Value rating: *No special cultural, social, ethical or spiritual values* = Score of 0 points.

Size – Value rating: *Very large 250m² or more* = Score of 16 points.

Age - Value rating: *50 to 100 years* = Score of 4 points.

Form and condition –.Value rating – *Good form, healthy condition, making good growth or interesting character* = Score of 8 points.

Suitability in relation to setting or site conditions – Value rating: *Good juxtaposition and harmony with important buildings, objects, structures and essential services or utilities.* = Score of 8 points

Functional value – Value rating: *No functional value* = Score of 0 points.

Total = 58 points

Analysis

43. As no measurements were recorded for the weeping elm, I measured it myself on 20 April 2011 and found it to be of the following dimensions:
Height: 20.5 metres
Mean crown diameter: 19.0 metres
Diameter breast height: 9800 millimetres (at 900 mm).
44. In the District Plan criteria evaluation system, the size of a tree is determined by multiplying its height by the mean crown diameter, giving an overall size in square metres. Therefore, by calculating 20.5 metres x 19.0 metres the size of the weeping elm is 389.5m². This places the tree in the “very large” category for trees of 250m² or more. Trees in this category score 16 points as indicated in my evaluation table.
45. A factor not included in the Council’s evaluation of the weeping elm is the fact that the building on the site is protected as a heritage building. The building is identified as a Category B heritage building in the operative District Plan being of interest to the District’s community. The building is also identified as a Group B heritage building in the Proposed District Plan being of historical significance/value to the District.
46. The evaluation system provides for 16 points to be scored when a tree is associated with a heritage building. This factor category has been included in my evaluation record above.
47. Weeping elms were once a popular tree for planting in late Victorian and Edwardian gardens but since then have fallen out of favour. Those seen in the urban landscape today consist mainly of the few older trees planted around the early 1900s.
48. The Council’s evaluation of the weeping elm under the Scientific /botanical factor placed the tree in the Few good specimens of particular species in particular township or community category where it scored 2 points. I agree with the Council’s scoring of the weeping elm with regard to this factor.
49. With the exception the factors detailed above, I agree with the Council’s scoring under the other factors.

50. The evaluations of the beech are compared as follows:
Council evaluation score = 34 points
Fielding – Cotterell score= 58 points
51. The weeping elm is situated near the Burnett Street road boundary of the property several metres from the adjoining property boundary on the north west side.
52. The amount of the site area currently covered by the canopies of both the copper beech and the weeping elm would present difficulties with respect to any future proposals to develop the site. However, should the copper beech be felled because of its diseased state at some stage, this would remove much of the impediment to building on the central parts of the site.
53. Elms are reasonably resistant to construction work over the root zone. Provided the building foundations consisted of raised driven piles instead of the standard solid concrete block set into the ground, a building could be constructed up to a distance of, say, 5.0 metres of the elm's trunk.
54. Having regard for the points scored under the Council's Protected Tree Criteria/Evaluation System and the comments provided above, I consider that the weeping elm is entirely worthy of inclusion in the protected tree schedule of the District Plan and that it is feasible to retain it should proposals for the development of the site eventuate.

Submission point from Electricity Ashburton Ltd.

55. The submission from Electricity Ashburton Ltd. includes the following submission points:
- The removal of Item 73 from Schedule 12-4 regarding the proposed protection of all trees located within the legal road reserve.
 - The identification of any roadside tree worthy of inclusion individually as an item in the schedule.
 - Adding worthy Open Space trees within 10.0 metres of the Open Space boundaries to the protected tree schedule.
56. With regard to the protection of all trees within the legal road reserve, changes to tree protection under the provisions of the Resource Management Act Amendment Bill will make non specific "blanket" forms of tree protection illegal/unlawful. They are likely to come into effect on January 2012, therefore "blanket" protection should no longer be used as a means to protect trees under district plans.
57. Any proposal to protect all trees in road reserves or open space areas in the future would therefore require them to be individually (or as a group) evaluated and

selected using the Ashburton District Plan Protected Tree Criteria / Evaluation System that is included in the Plan.

58. Recording the details and identifying the position of every tree in road reserves and open space throughout the Ashburton District would be a time consuming and expensive task and one that could be of limited cost/benefit to the community.
59. Should all trees on road reserves and open space be protected, any normal tree maintenance operations would also require the Council to obtain resource consent (possibly involving a planning hearing and decision by a Commissioner).
60. However, surveying the road reserves to identify **outstanding** individual trees that would be worthy of protection trees would be worthwhile, particularly as most will be well known and valued by the local community. Such process could be carried out through a survey and public response process leading to a future plan change.
61. The Criteria/Evaluation System does provide for the protection of “fine avenue” or street plantings under the factor “Importance of position in landscape”. An example of “iconic” road reserve plantings that would qualify for protection (if specifically identified in the protected tree schedule) are the oak plantings along Oak Grove and the plantings along Walnut Avenue.
62. The protection of groves or avenues of trees is also catered for in the evaluation system under the size factor. It would not be necessary to record the details of every individual tree in avenues or groves in such instances.
63. With regard to ordinary road reserve plantings, as the road owner, the Council has full control over their management and can place “reasonable conditions” as to the operational methods of any works that may affect them. For this reason, I do not believe it is necessary to protect all such trees in road reserves.
64. However, there are situations where any Road Reserve trees may be threatened. The public or others have a right in law to apply to a District Court for an order for trees to be trimmed or removed under the Property Law Act and the common law of Nuisance. These laws apply to the Council also. The Council also has a legal obligation to comply with the Electricity (Hazards from Trees) Regulations 2003. The regulations define the safe distances to be maintained between the trees and the overhead lines.
65. However, where trees are protected under a District Plan, any person or body wishing to carry out work on such trees must still apply for resource consent. There is merit therefore in protecting **the most important trees** as it provides the Council with the legal means of defending trees against what may be excessive or destructive demands.

66. In cases where tree disputes may be referred to a District Court for a decision, as well as the relevant acts, laws, or regulations the Court must also have regard to the tree protection ordinances of the relevant District Plan (and the RMA) in arriving at any decision.
67. Utility authority normal scheduled maintenance operations, may require work to be carried out on protected trees. To reduce the work delays, administration processes and costs involved in making resource consent applications for such operations, the authorities may, provided there is sufficient reason/justification, apply for resource consents to carry out certain works for an extended period of ten (10) years. (The usual consent duration is five (5) years). Any such consent approved by the Council will be subject to any conditions the Council may wish to make and the right for the Council to monitor the works.
68. With regard to the positioning of trees in road reserves, in my opinion, the question of tree planting standards, distances from utilities etc. and the ultimate size of trees to be planted, would be better dealt with in a formally adopted Ashburton Council tree management policy. Controls and procedures covering construction or other works affecting Council trees could also be included in such a document.
69. Having regard to the considerations above, it is my opinion that item 73, “the protection of all trees located within the road reserve” should be removed, and that only significant individual trees or fine avenues or groves of trees within the road reserve or open space land, be listed for protection in Appendix 12-4 of the District Plan (as part of a future plan change process).

Submission by Alan Bruce Totty

70. This submission opposes the omission of a number of ‘local’ indigenous solitary trees to the schedule of protected trees.
71. The survey of trees worthy of protection throughout the Ashburton district has not been exhaustive nor has this been the intention at this stage. The main focus has been on the identification of trees of heritage or major significance throughout the urban areas of Ashburton. The reason for this is they are more at risk from the increasing development and redevelopment activities taking place in these areas and therefore more needy of immediate protection by the Council.
72. The establishment of exotic tree plantings in New Zealand by early settlers and successive planters that have continued the exotic tree theme, represents an important part of our history and current culture. Such plantings are still highly valued by the general public for their visual and general amenity qualities.

73. However, there has been an increased public awareness of the value of indigenous trees in more recent years and this has resulted in greater efforts to identify and protect them under District Plans than was previously the case.
74. The Council intends that the survey for significant trees will eventually widen to include all the rural areas of the District. This will be subject to the allocation of sufficient resources and funding for the work. This survey would certainly include any individual native trees of significance, including the Totara at Lawn Hayes and the native Kahikitea and ribbonwood at Ross Cottage, Staveley proposed by the submitter.
75. It is not possible or appropriate to undertake such a survey now in response to submissions, as that would not enable proper public consultation or response. However, I recommend that this be addressed as a future project outside the District Plan hearing process.

Submission by Warren Jowett

76. This submission opposes the omission of native specimen trees in rural areas from the District Plan schedule of protected trees
77. The survey of trees worthy of protection throughout the Ashburton district has not been exhaustive nor has this been the intention at this stage. At this stage, the main focus has been on the identification of trees of major significance in the urban areas of Ashburton. This is because they are more at risk from the increasing development and redevelopment activities taking place in these areas and require prompt action to ensure their preservation.
78. The establishment of exotic tree plantings in New Zealand by early settlers and successive planters represents an important part of our history and culture. Such plantings are still highly valued by the general public today for their visual and general amenity qualities.
79. However, there has been an increased public awareness of the value of indigenous trees in more recent years and this has resulted in greater efforts to identify and protect them under District Plans, than was previously the case.
80. It is intended that the survey for significant trees will eventually widen to include all the rural areas of the District, subject to the allocation of sufficient resources and funding for the work. This survey would certainly include any individual native trees of significance, including the totara at Lawn Hayes and the native kahikitea and ribbonwood at Ross Cottage, Staveley proposed by the submitter.
81. It is not possible or appropriate to undertake such a survey now in response to submissions, as that would not enable proper public consultation or response.

However, I recommend that this be addressed as a future project outside the District Plan hearing process.

Submission by Canterbury District Health Board

82. This submission opposes the use of land criteria listed on Table 12-4 and seeks an alternative setback of 5m.
83. To ensure that protected trees are not intentionally or inadvertently damaged by land use or construction activities in the root zone, it is necessary to retain the Plan rule 12.7.1 (f) the setback of “*10.0 metres or crown periphery (dripline) which ever is the greater*”.
84. The reasons for this are as follows:
- A large tree’s roots usually extend well beyond the plan rule setback distances stated above.
 - Research has found that the majority of roots, particularly the important fine feeding or absorbing roots, are located within 300 millimetres of the soil surface, and are present even at a shallow depth of 75 millimetres. It is at these depths that most of the nutritional organic matter is found as well as higher levels of soil aeration.
 - Construction work such as that for buildings or driveways, involve excavation for foundations to be carried out at or well beyond the above depths. Even the construction of a pedestrian footpath can result in most of the shallower roots being severed or damaged.
 - Roots affected by unauthorized/unsupervised excavation work are usually torn and broken, the damage often extending well beyond the actual construction envelope.
 - Trees suffering such damage are prone to infection by disease pathogens entering through the wounds. Unlike the human wound condition, the effects of this infection e.g. decay spreading along the damaged roots to the main trunk, may not become apparent until many years later.
 - The installation of impervious materials over the root-zone will prevent direct rainfall reaching the roots, affecting soil moisture levels that the tree has long grown accustomed to.
 - Impervious materials will also reduce soil aeration and restrict gaseous exchange, vital for the health of the tree and essential soil organisms
 - The resistance of each tree species and their ability to survive and recover from such treatment varies greatly.

85. If construction work is carried out outside the 10 metre/crown periphery distance from the tree's trunk, any mechanical damage caused to the roots is more likely to be minor and not to an extent likely to cause a decline in the trees condition.
86. The closer the work is carried out to the tree's trunk a progressively greater area of the root-zone is affected. At distances of 5.0 metres, excavation and construction work particularly if it encircles the tree, is likely to cause a major decline in its condition.
87. It is imperative therefore, that through the rules of the District Plan, the Council retains control over activities and land uses that have the potential to cause severe damage to trees of major significance to the community.
88. However, construction work and associated activities are not absolutely precluded within the specified 10 metre distances. Such work is defined in the Plan rule 12.7.3 as a "Restricted Discretionary Activity". This means that resource consent applications can still be made to Council for approval to carry out works within the defined distances.
89. Any Council consent for the use of the land within the specified distances from protected trees will be subject to certain conditions as to how the activity/works are to be carried out. In dealing with such applications, the Council will have regard for the protected tree assessment matters set down in Section 12.9.2 of the District Plan. In addition, the proposed means and methodology of carrying out the works in a manner that will ensure the tree's long term survival, will need to be assessed and approved by the Council before consent will be granted. A report by a Council approved arborist will be required for this.
90. Therefore, I do not recommend that the setback distance under rule 12.7.1 be altered.

Submission by Telecom New Zealand Ltd.

91. This submission opposes the controlled activity status for the trimming of protected trees where parts of the tree interfere with overhead power-lines and seeks to provide a rule in the District Plan to deal with emergencies/immediate hazard situations.
92. Under District Plan rule, Section 12.7.2 (e) the "*Trimming of trees by Network utility operators where the tree or parts of the tree interfere with existing utility networks and the security of supply*" is currently set as a controlled activity (consent must be sought but must be granted and may have conditions applied). The submitter is seeking this clause become permitted rather than controlled.

93. As a general comment, I believe it is not advisable or necessary for the District Plan to include separate provisions or rules that apply to specific utility owners, businesses, professions or persons.
94. I believe it is necessary to retain the general utility tree trimming activity as a controlled activity for the following reasons:
- Most protected trees are privately owned and it is only through the Council and the District Plan rules that their trees can be protected from the activities of others and work standards specified, implemented and monitored.
 - Although the consent must be granted, in continuing to require resource consents for activities involving protected trees, the Council has the opportunity at the end of each consent to assess an applicant's performance/ability to carry out the work correctly and to impose or change any conditions deemed to be necessary in any new consent.
 - The consent and its conditions should not rely on terms such as "minor trimming" or meanings that are open to a wider interpretation. It is preferable (as far as practicable) to use standards that are measurable and clear to all.
95. For example, the proposed rule relating to the maintenance trimming of a protected tree is that it "*involves trimming in the bottom third of the tree only, and only branches 50 millimetres in diameter or less may be trimmed, and trimming is by the use of non mechanical means*". A plan rule or consent condition such as this is quite specific.
96. Utility authority scheduled maintenance operations, may require work to be carried out on protected trees. To reduce the work delays, administration processes and costs involved in making resource consent applications for such operations, the authorities may, provided there is sufficient reason/justification, apply for resource consents to carry out certain works for an extended period of ten (10) years. (The usual consent duration is five (5) years). Any such consent approved by the Council will be subject to any conditions the Council may wish to make and the right for the Council to monitor the works.
97. The consent can include such conditions as may be agreed between the utility authority and Council. The content of the conditions may include the following examples:
- The qualifications/competence of those carrying out the tree work.
 - The size of branches allowed to be removed.
 - The extent a tree may be pruned at any one time (percentage of branches/foliage removed).

- Notification to private protected tree owners of impending work.
 - Situations where the Council is to be notified of certain works.
 - Current arboricultural standard specifications
98. With regard to emergencies, notwithstanding the emergency provisions of the RMA, I believe there is a need for certainty and clarity for those involved with emergencies and who may not be well versed in the Act. This could be achieved by including a rule in the District Plan to deal with emergency situations where the telecommunications lines are at immediate risk of being damaged or have broken and/or in need of urgent repair. This is particularly the case in extreme climatic events where fully functioning communication networks and electric power supplies are vital for public health and safety.
99. However, the rule should not apply to specific utility service providers, but to all those who may have to deal with an emergency situation involving trees. I therefore propose the following rule to be included in the District Plan.
In emergency situations, where a protected scheduled tree or any part thereof, presents an immediate hazard to utilities, services, persons or property, and a Council approved arborist is not available without delay; immediate action can be taken to eliminate or abate the hazard by any safe means, but restricting the work to only that which is necessary, and provided that within five (5) working days of the action being taken, the Council is notified in writing of the action taken and provided with proof of the urgency.
100. In my opinion, the proposed protected tree rules and amendments will clarify and facilitate the maintenance operations of essential utilities. They will also provide for emergency situations involving protected trees, without jeopardizing the purpose or objectives of the general protected tree provisions or the health of the trees themselves. In my opinion, the general trimming of protected trees by network/utility operators should remain as a Controlled Activity.
101. I believe the concerns of the submitter would be met by the granting of a resource consent that contained operational conditions that were acceptable to the Council and the submitter alike. I also believe that a rule in the District Plan defining/clarifying what constitutes an emergency situation and the action that can be taken, would be a beneficial to all those who may have to deal with them, including the victims of such events.