Invercargill
CITY COUNCIL

NOTICE OF MEETING

Notice is hereby given that a Meeting
of the Hearings Panel
will be held in the Council Chambers
First Floor, Civic Administration Building,
101 Esk Street, Invercargill
On Tuesday 1 September 2015 at 9.00 am

Cr D J Ludlow (Chairman)
Cr G J Sycamore
Cr N D Boniface

EIRWEN HARRIS
MANAGER, SECRETARIAL SERVICES

Finance and Corporate Services Directorate
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AGENDA

Page

1. **APOLOGIES**

2. **REPORT TO THE HEARINGS PANEL**

2.1 **HEARING – PROPOSED INVERCARGILL CITY DISTRICT PLAN**

Report 39 – Miscellaneous Submissions

3. **COMMITTEE IN PUBLIC EXCLUDED SESSION**

Moved, seconded and **RESOLVED** that the public be excluded from the following parts of the proceedings of this meeting; namely

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1)(d) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Consideration of Resource Consent Application	A right of appeal lies to any court or tribunal against the final decision of the Local Authority in these proceedings.	**Section 48 (2) (a) (1)**

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PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 39

Miscellaneous submissions

31 August 2015, 9.00 am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING, ESK STREET, INVERCARGILL

Reporting Officer: Liz Devery
SENIOR PLANNER - POLICY

Peer Reviewed by: Dan Wells
JOHN EDMONDS AND ASSOCIATES LTD

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1. EXECUTIVE SUMMARY

During the course of the District Plan Hearings, a number of submission points have been inadvertently omitted from Section 42A reports. This report includes discussion and recommendations on those five submission points.

The submission points raise issues relating to:

- Rural zoning adjoining the Smelter Zone
- Hazardous substances table – Appendix VII
- Format of Concept Plans – Appendix X
- Maps of reticulated services – Appendix XI

My recommendations are largely to retain the provisions as notified. However, I have recommended that the concept plans be inserted into the Plan in a more legible format and that extensions to the Council's reticulated water supply be a non-complying activity in certain zones, consistent with the Plan's approach to reticulated sewerage services.

In this report:

- Part 2 considers several key procedural issues.
- Part 3 provides general background to the proposed provisions.
- Part 4 summarises the various statutory provisions that apply to the consideration of the Proposed District Plan.
- Part 5 assesses the relevant issues raised by submitters and the effects of the relief sought.
- Part 6 includes an evaluation of the provisions in accordance with Section 32AA of the RMA.
- Part 7 sets out the overall conclusions.
- Appendix 1 sets out the recommendations on each of the submission points.
- Appendix 2 sets out the recommended changes to the text of the Proposed District Plan.

2. INTRODUCTION

2.1 Report Author

My name is Elizabeth Ann Devery. I am the Senior Planner – Policy, at the Invercargill City Council, a position I have held since January 2003. I have over 14 years planning policy experience working in planning and regulatory roles in local government in New Zealand and the United Kingdom. These roles have focused on both developing and implementing District Plans and planning documents. I hold the qualifications of LLB/BA (Hons I) in Geography.

2.2 Peer Review

This report has been peer reviewed by Dan Wells from John Edmonds and Associates Ltd. Dan Wells is a resource management planner with a variety of experience throughout the plan change preparation process. Dan has a Bachelor of Resource and Environmental Planning (Hons) and a Post Graduate Diploma in Development Studies, both from Massey University.

2.3 How to Read this Report

This report is structured as follows:

- Interpretation (an explanation of some of the terms used).
- A summary of the hearing process.
- Background to the provisions of the Proposed Invercargill City District Plan 2013 discussed in this report.
- Description of the statutory framework within which the proposed provisions have been developed.
- Analysis of the submissions, including a discussion of the key issues raised through the submissions and further submissions received.
- Assessment of the proposed changes under Section 32 of the RMA.
- Concluding comments.
- Recommendations on individual submissions.
- Tracked changes of the Proposed District Plan provisions.

To see my recommendation on an individual submission please refer to the table at the end of Appendix 1. The table sets out the name and relevant submission number of those who submitted and a brief summary of their submission and decisions requested, followed by my recommendation and the reasons for it.

2.4 Interpretation

In this report, the following meanings apply:

"Council" means the Invercargill City Council

"Hearings Committee" means the District Plan Hearings Committee

"Operative District Plan" means the Invercargill City District Plan 2005

"Proposed District Plan" means the Proposed Invercargill City District Plan 2013

"Provisions" is a term used to collectively describe Objectives, Policies and Rules

"RMA" means the Resource Management Act 1991

"Submitter" means a submitter to the Proposed District Plan

2.5 The Hearing Process

A number of hearings have been held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been divided up to ensure that submissions on similar issues have been grouped together and to enable the District Plan Hearings Committee to make decisions on the provisions relating to those issues. This report addresses a small number of submission points that were omitted from the previous reports.

The Hearings Committee comprises of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. This Committee is to consider the Proposed Plan and the submissions and further submissions lodged. The Hearings Committee has full delegation to issue a decision on these matters.

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the "RMA"). Section 42A provides for a report to be prepared prior to a hearing, setting out matters to which regard should be had when considering a Proposed District Plan and the submissions lodged to it. This report highlights those matters that are considered appropriate by the author for the Hearings Committee to consider in making decisions on the submissions lodged. The report has been prepared on the basis of information available prior to the hearing.

While the Hearings Committee is required to have regard to this report, regard must also be given to the matters raised in submissions, and presentations made at the hearing. The comments and recommendations contained in this report are not binding on the Hearings Committee and it should not be assumed that the Hearings Committee will reach the same conclusions set out in the report having heard from the submitters and Council advisers.

The hearing is open to the public, and any person may attend any part of the hearing.

Those persons who lodged a submission have a right to speak at the hearing. They may appear in person, or have someone speak on their behalf. They may also call evidence from other persons in support of the points they are addressing.

At any time during or after the hearing, the Hearings Committee may request the preparation of additional reports. If that is done, adequate time must be provided to the submitters to assess and comment on the report. The Hearings Committee may determine that:

- The hearing should be reconvened to allow responses to any report prepared, or
- Any responses be submitted in writing within a specified timeframe.

At the conclusion of the hearing process, the Hearings Committee will prepare a written decision. The decision is sent to all persons who lodged a submission. If not satisfied with the decision the submitters have a right of appeal to the Environment Court. If an appeal is lodged, the RMA requires a copy to be served on all submitters with an interest in that matter. Any submitter served may, if they wish, become a party to the appeal either in support or opposition to it.

If there is an appeal, the Environment Court will provide an opportunity for mediation between the parties. If mediation is not accepted, or does not resolve the issues, a further hearing will take place before a Judge and Court appointed Commissioners. Except on points of law, the decision of the Environment Court is final.

3. BACKGROUND

The District Plan Hearings Committee has held 12 Hearings to date on the Proposed District Plan covering the full range of topics. In the course of these Hearings, a small number of submission points have been inadvertently omitted from reports. This report seeks to address those submission points that have been missed.

One submission point addresses the Rural Zoning adjoining the Smelter Zone. This submission point should be read in conjunction with the Section 42A reports on the Smelter Zone (Report No. 23) and the Rural Zones (Report No. 35).

There are two submissions that refer to Appendix VII of the Proposed District Plan, which lists the permitted quantities of hazardous substances in each of the Zones. These submissions should be read in conjunction with Section 42A Report No.25 Hazardous Substances.

One submission makes general comment about Appendix X – Concept Plans. This comment relates to the format of these plans.

The other submission addressed in this report refers to Appendix XI which maps the existing reticulated sewerage system. This submission is related to the Infrastructure provisions addressed in Section 42A Report No. 19 Infrastructure.

3.1 Zoning around the Smelter Zone

The boundaries of the Smelter Zone in the Proposed District Plan have remained unchanged from the Smelter Sub-Area boundaries in the Operative District Plan. The area surrounding the Smelter Sub-Area was zoned Rural in the Operative District Plan. Under the Proposed District Plan this zoning has been modified to be Rural 1 Zone. The key difference between the Rural Sub-Area and the Rural 1 Zone is the introduction of a four hectares minimum lot size.

The noise standards for the Smelter Zone are drafted to enable noise created within the Smelter Zone to exceed the Rural 1 Zone noise limits up to the notional boundary of noise sensitive activities. Recommendations on the noise provisions set out in the Section 42A Report No. 33 on Noise seek to retain these provisions.

The Tiwai Peninsula is in the Coastal Environment. The Proposed District Plan recognises the area directly adjoining the Smelter Zone as an outstanding natural feature and landscape. There are also large areas of land recognised for their biodiversity values, which are offered protection through the Proposed District Plan. Of note, there are also a number of cultural, heritage and archaeological sites within the vicinity of the Smelter Zone.

3.2 Hazardous Substances

The Proposed District Plan includes a schedule of hazardous substances listing permitted quantities of different classes of substances for the different Zones. Zones with similar characteristics and amenity values have been grouped together.

This approach is similar to the Operative District Plan, although the table and quantities permitted and supporting District Plan provisions, have been updated to be more consistent with current legislation.

The approach to hazardous substances throughout the Proposed District Plan is to align its provisions with the Hazardous Substances and New Organisms Act 1996 (HSNO) and to avoid any unnecessary duplication. However, the Proposed District Plan provisions also recognise that in some instances an overlay of controls is necessary in order to address specific resource management issues not otherwise controlled by HSNO.

3.3 Concept Plans

Appendix X of the Proposed District Plan includes the four different concept plans referred to throughout the document.

Concept Plan 1 – CBD – July 2013 is a general concept plan reflecting work carried out by the Council through the Inner City Working Group. This concept plan is referred to at Policy level, but has no rules that are triggered by non-compliance with it.

Concept Plan 2 – Business 5 (Rural Service) Zone was developed as a result of a private plan change that became operative in May 2009. This concept plan has not been amended since and is in the original format. Proposals that do not meet this concept plan in the Business 5 Zone will be considered non-complying activities. This concept plan sets out the access arrangements for the area, the location of drainage ditches and landscaping buffers.

Concept Plan 3 – Industrial 3 (Large) Zone is an updated version of a concept plan from the Operative District Plan. This concept plan identified the area to be retained for surface water drainage purposes. The location of the edge of the physical terrace feature in the Zone is indicated. The concept plan requires all buildings to be located within the terrace area and stipulates a maximum height for these structures. The changes from concept plan included the Operative District Plan relate to the access arrangements and provide an update in relation to the formation of roading in the area.

Concept Plan 4 – Industrial 4 (Awarua) Zone was developed as part of a plan change that became operative on 3 November 2009. This concept plan includes a number of details, from identifying a heritage area, contours of the land, stormwater drainage areas, areas of vegetation to be protected, through to landscaping requirements.

3.4 Maps of reticulated sewerage system

Appendix XI includes maps of the Invercargill City District showing the location of the reticulated sewerage system as it existed at the time of notification of the Proposed District Plan. A similar appendix was introduced into the Operative District Plan through a Variation in 2004 relating to the density of residential development in the Rural Sub-Area.

The Appendix is referred to in the Rural 2 Zone provisions. For sites under two hectares where the proposed residence is to be connected to Council's reticulated foul sewerage system as shown in Appendix XI, the maximum density is one residence per certificate of title, provided a boundary of that certificate of title is within 30 metres of the Council reticulated sewerage system. This is to allow a single dwelling on sections which exist with a certificate of title and which can be connected to the Council's reticulated sewerage system.

The Appendix is also referred to in the Infrastructure provisions. Under Rule 3.9.3, any extension to the Council's reticulated services shown in Appendix XI is a non-complying activity. Recommendations in the Section 42A Report No. 19 Infrastructure sought to amend this provision slightly.

4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

In developing the Proposed District Plan there are a number of statutory requirements guiding the process and outlining what must be considered. While the statutory context is the same, the issues addressed in this report cover a range of different topics with some legislative and contextual variation. This section of the report should be read in conjunction with the other Section 42A reports where relevant, such as Report No.19 Infrastructure for issues around servicing, and Report No. 25 Hazardous Substances for discussion on the approach to hazardous substances[1].

4.1 Resource Management Act 1991

In reviewing the District Plan, the Council must follow the process outlined in Schedule 1 of the RMA.

The First Schedule procedure includes notification for submissions (clause 5) and further submissions (clause 8), holding a hearing into submissions (clause 8(b)), and determining whether those submissions are accepted or rejected and giving reasons for the decisions (clause 10).

Clause 29(4) of the First Schedule to the RMA states that after considering a plan the local authority may decline, approve, or approve with modifications, the plan, and shall give reasons for its decisions.

Under Section 74 of the RMA, in relation to changes to the District Plan, the Council must consider Part 2 of the Act (purposes and principles), Section 32 (alternatives, benefits and costs), and relevant regional and district planning documents.

4.1.1 Part 2 of the RMA

Part 2 of the RMA (ss5-8) sets out its purpose and principles of the Act.

The purpose of the RMA is set out in Section 5. I confirm that the matters addressed within this report fall within the purpose of the RMA. For example, the provisions on hazardous substances provide for the health and safety of people and are designed to avoid, remedy or mitigate adverse effects on the environment (Section 5(2)(c)). The provisions addressed in this report are also designed to sustain the potential of natural and physical resources (excluding minerals) in order to meet the reasonably foreseeable needs of future generations (Section 5(2)(a))

Section 6 of the RMA sets out matters of national importance which must be recognised and provided for. None of the matters listed in Section 6 are of direct relevance to the issues addressed in this report. While there are areas adjoining the Smelter Zone that are identified as containing significant indigenous vegetation and significant habitats of indigenous fauna, and areas that are identified as outstanding natural features and landscape, these issues are the subject of separate reports to the Hearings Committee and for the purposes of this report need not be repeated.

Section 7 of the RMA sets out "other matters" for which particular regard shall be had. Those that are most relevant are:

[1] These other Section 42A reports are available for viewing on the Council's website, www.icc.govt.nz

(b) The efficient use and development of natural and physical resources

(c) The maintenance and enhancement of amenity values

(f) Maintenance and enhancement of the quality of the environment

Section 8 of the RMA obliges persons exercising functions and powers under the Act to take account of the principles of the Treaty of Waitangi. Representatives from Te Ao Marama Inc have been part of the Plan Review process as members of the Council's Plan Group that worked on developing the Proposed District Plan. Consultation with representatives of local Iwi has also occurred. The local Iwi Management Plan has also informed the approach to the issues addressed in the Proposed District Plan.

4.1.2 Functions of Territorial Authorities under the RMA

Section 31 of the RMA states the functions of a territorial authority under that Act. One of the functions, set out in Section 31(1)(b) is:

"the control of any actual or potential effects of the use, development, or protection of land ..."

The provisions addressed in this report relate to objectives, policies, and, particularly, methods that intend to manage the actual or potential effects of land use and subdivision. These provisions fall within the Council's functions under the RMA.

4.1.3 Consideration of alternatives, benefits, and costs

Section 32 of the RMA states the Council's obligations in assessing the alternatives, benefits and costs.

Whilst a Section 32 report was released at the time of notification of the Proposed District Plan, the Council is required to carry out a further evaluation through the hearing, consideration and deliberation process before making its decision on the Plan Change. Section 6 of this report includes my evaluation of any recommended changes to the Proposed District Plan provisions in accordance with Section 32AA.

4.2 Relevant Planning Policy Documents

The RMA specifies a number of documents that need to be considered in a decision on a Proposed District Plan and the weight that should be given to these. These are addressed in the following section.

4.2.1 New Zealand Coastal Policy Statement 2010

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand coastal policy statement. The New Zealand Coastal Policy Statement 2010 (NZCPS) is not of direct relevance to the matters addressed in this report. I note that the approach to the coastal environment in the Proposed District Plan has been addressed in the Section 42A Report No. 17. The submissions addressed here do not raise any additional concerns.

It is noted that some of the rural areas adjoining the Smelter Zone are within the Coastal Environment as recognised within the Proposed District Plan. It is worth

noting that the Rural 1 zoning is consistent with the NZCPS in that it limits the intensity of development.

Appendix XI is consistent with the NZCPS in that it recognises the importance of existing infrastructure, but any extensions to the reticulated sewerage services identified in Appendix XI will trigger a resource consent. Through this resource consent process, effects on the coastal environment will be considered where appropriate.

4.2.2 National Policy Statements

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements (NPS). I do not consider that there is any NPS that is particularly relevant to this report.

4.2.3 National Environmental Standards

Section 44A of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard. I do not believe that there are any potential conflicts raised through the consideration of the submissions addressed in this report.

4.2.4 Operative Regional Policy Statement

Under Section 75 of the RMA, a District Plan must give effect to an Operative Regional Policy Statement (RPS). The relevant RPS is the Southland Regional Policy Statement 1997.

4.2.4.1 Rural Zoning

The Operative RPS does not provide clear direction in relation to rural zoning. There is a section entitled "Land", however there are no specific Objectives and Policies in this section of the Operative Regional Policy Statement. Instead, the land issues are split between four separate chapters on Soils; Landscapes and Natural Features; Built Environment; and Transportation.

The matters related to Soils, Biodiversity and Outstanding Natural Features and Landscapes have been addressed at a District wide level and need not be repeated here. This area is not within the built environment.

4.2.4.2 Hazardous Substances

The hazardous substances section of the RPS is particularly relevant to one of the issues raised in this report, along with Objectives and Policies within the Built Environment and Transportation sections.

The Objectives, Policies and Rules of the Proposed District Plan give effect to the provisions of the RPS through the Hazardous Substances and Contaminated Land provisions.

The Proposed District Plan seeks to safeguard the environment, and human health and safety from the adverse effects of existing and past storage use, disposal or transportation of hazardous substances through the hazardous substances provisions, giving effect to Objective 17.1 of the Operative RPS. This has been done

by setting maximum limits for the storage of hazardous substances for each of the different zones, which have been grouped together according to their characteristics and land use requirements. If the maximum quantities are exceeded resource consent is required which allows the Council to consider all adverse effects, including those on surrounding land uses and sensitive environments such as hazard prone areas.

4.2.4.3 Infrastructure

The Operative RPS does not include a specific section focusing on infrastructure. In the Biodiversity and Natural Features and Landscapes sections of the Regional Policy Statement the methods require that the consideration of effects on these environments and their associated values be part of processes involving public works and network utilities. The Transportation section of the Regional Policy Statement includes references to the transportation infrastructure. The issues set out in the Coastal section include recognition of effects from the location and design of infrastructure, and the extent to which provision should be made for infrastructure in coastal environments.

Of most relevance though are the provisions set out in the Built Environment Section of the Regional Policy Statement. The Infrastructure provisions give effect to these policies and objectives by recognising the importance of providing infrastructure and the importance of efficient use of the existing infrastructure, whilst also recognising that there are adverse environmental effects associated with this infrastructure that should be considered. The zoning approach in the Proposed District Plan also recognises the importance of ensuring development connects with existing infrastructure and does not result in unconsidered extensions.

4.2.5 Proposed Regional Policy Statement

In accordance with Section 74 of the RMA, regard needs to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012. Decisions were released on the Proposed RPS on 6 June 2015. In developing the Proposed District Plan provisions regard was given to the Proposed RPS as notified. For the purposes of this report, the decisions on submissions to that policy statement form part of the considerations.

4.2.5.1 Rural Zoning

The Proposed RPS includes a chapter specifically on Rural Land/Soils. In determining the zoning of the rural areas, the Proposed RPS was considered. The zoning of the Tiwai Peninsula and the area immediately surrounding the Smelter Zone was developed in response to issues covered by Issue RURAL.2, particularly in recognition that subdivision, land use and development can adversely affect soil, water, amenity, tangata whenua cultural values, landscapes, the transportation network and can give rise to reverse sensitivity issues.

The Coast, Biodiversity, Natural Features and Landscapes, and Historic Heritage chapters are all relevant to some extent too, given the values of the area within and around the Smelter Zone. The District Wide provisions of the Proposed District Plan have been developed in consideration of these chapters of the Proposed RPS.

4.2.5.2 Hazardous Substances

The Proposed RPS includes specific and focused policies on the issue of hazardous substances. Chapter 12 is of particular relevance to the hazardous substances provisions of the Proposed District Plan. The Proposed RPS Objectives and Policies are very much aligned to those in the Proposed District Plan.

The provisions in the Proposed District Plan, including Appendix VII, were developed with regard to Method HAZ.2 in the Proposed RPS, as detailed below:

Method HAZ.2 - District plans

Establish and maintain provisions in district plans to control the use of land for activities that store, use, transport, or dispose of hazardous substances, to avoid, remedy or mitigate adverse effects from the storage, use, transportation and disposal of hazardous substances, including on:

(a) other land use activities;

(b) the health and safety of the community;

(c) amenity values, and community and tangata whenua resources, cultural and spiritual values.

The Proposed District Plan seeks to protect the environment and human health and safety from the adverse effects of the manufacture, storage, use, transportation and disposal of hazardous substances. Provisions have also been provided in order to maintain and enhance the environmental quality of the region's built environment and to minimise the adverse effects on natural and physical resources. This has been done by setting maximum limits for the storage of hazardous substances for each of the different zones which have been grouped together according to their characteristics and land use requirements. Consideration of the types of activities suitable for the different zones has also been partly informed by the potential hazardous substances issues, for example separating, where possible, areas zoned for residential activities from those zoned for heavy industries.

4.2.5.3 Infrastructure

The Proposed RPS includes a chapter on Infrastructure and Transport. The Infrastructure section recognises the key infrastructure issue as being that change in land use and development is not always integrated with local, regional and national infrastructure. It also recognises the risks of climate change and natural hazard events on critical infrastructure.

The Objective in the Proposed RPS that relates to Infrastructure is:

Objective INF.1 – Southland's infrastructure – Southland's regionally significant, nationally significant and critical infrastructure is secure, operates efficiently and is appropriately integrated with land use activities and the environment.

This Objective is carried through to the Proposed District Plan and further expanded on.

There are six policies in the Proposed RPS relating directly to Infrastructure. These seek:

- To recognise and provide for infrastructure;
- To avoid, remedy or mitigate the adverse effects of infrastructure;
- To protect the infrastructure from incompatible activities under, over or adjacent to that infrastructure;
- To avoid, remedy or mitigate the adverse effects of natural hazards and climate change on infrastructure; and
- To manage development, subdivision and land use to ensure:
  - (a) Development does not result in adverse effects on the efficient operation, use, maintenance and development of infrastructure;
  - (b) The nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of infrastructure;
  - (c) The efficient and effective functioning of infrastructure, including the ability to develop, maintain, remove, decommission and upgrade infrastructure, is retained;
  - (d) A coordinated and integrated approach across regional and district boundaries and between agencies.
- To provide for the integrated management of the region's infrastructure by:
  - (a) Recognising the interconnected nation of natural and physical resources; and
  - (b) Promoting a collaborative and consistent approach to managing infrastructure.

The Proposed RPS also requires District Plans to include Objectives, Policies and Methods that will cover a range of matters, such as enabling infrastructure whilst considering any adverse effects, ensuring the integration of development with infrastructure, and addressing reverse sensitivity effects.

There are also provisions throughout the remainder of the Proposed RPS that encourage the integration of land use, development and subdivision with infrastructure, such as the provisions within the Water chapter.

The provisions of the Proposed District Plan address the issues raised in the Proposed RPS provisions.

4.2.6 Regional Plans

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. There are no Regional Plans that are directly relevant to the issues discussed in this report. It is my opinion that the Proposed District Plan is not inconsistent with any of the Regional Plans in its approach to the issues addressed in this report.

4.2.7 Iwi Management Plans

Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an Iwi authority and lodged with the territorial authority. Ngāi Tahu has lodged an Iwi Management Plan with the Council.

The relevant document is the *Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Tauira*.

The issues and policies of the Iwi Management Plan have been had regard to in the development of the Proposed District Plan provisions in the objectives, policies and methods of implementation.

4.2.8 Management Plans and Strategies Prepared under other Acts

A District Plan is required to have regard to management plans and strategies prepared under different Acts.

There are a number of Council activity plans developed as part of the Annual Plan process that are of relevance to the Infrastructure topic. The Council's infrastructure is overseen by the Works and Services Directorate. Regard has been had to the Council's policy direction, particularly in regards to extensions of services and to Bylaw 2031/1 Code of Practice for Land Development and Subdivision Infrastructure.

Regard has been had to *The Big Picture*, Council's spatial plan prepared under the Local Government Act 2002. Integration with existing services and the preference for infill development over urban sprawl in order to ensure efficient use of existing infrastructure were key considerations in determining the delineation of the urban areas of the Invercargill City District in the spatial plan. This approach has informed zoning decisions in the Proposed District Plan.

5. ANALYSIS OF SUBMISSIONS

This report addresses five submissions that have been omitted from previous Section 42A reports. These submissions are summarised in table format, along with recommended responses, in **Appendix 1** to this report. Where the submission relates to issues already addressed in other Section 42A reports, those other reports should be read alongside recommendations in this report.

The issues raised in this report vary significantly.

The key issues raised in the submissions are:

1. Zoning around the Smelter Zone
2. Hazardous Substances
3. Formatting of Concept Plans in Appendix X
4. Detail included in Appendix XI

5.1 Zoning around the Smelter Zone

New Zealand Aluminium Smelters Ltd has submitted in support of the Rural 1 Zoning of the land adjoining the Smelter Zone. This land was previously in the Rural Sub-Area in the Operative District Plan. The four hectares minimum lot size in the Rural 1 Zone will reduce the potential density of residential development in the areas surrounding the Smelter Zone.

With subdivision becoming a discretionary activity in the Proposed District Plan, reverse sensitivity issues, such as noise, will need to be addressed through the consents process. Because activities within the Smelter Zone are able to exceed the Rural Zone noise limits in some areas up to the notional boundary of noise sensitive activities, less noise sensitive activities permitted in the immediate area means that there are fewer potential controls over the effects of activities.

There are also areas of significant indigenous biodiversity identified in this environment. There are a number of district wide provisions that may be relevant for any subdivision or land use proposal in this area. The nature, scale and intensity of permitted activities in the Rural 1 Zone are considered the most appropriate of all the zone options contemplated in preparation of the Proposed District Plan.

It is recommended that the Rural 1 Zone be retained on the land adjoining the Smelter Zone and for the Tiwai Peninsula in general.

5.2 Hazardous Substances

5.2.1 Inclusion of a Hazardous Substances Table

New Zealand Aluminium Smelters Ltd has submitted in opposition to the inclusion of the table setting out permitted quantities of different substances for the different Zones. The submitter considers the limits are inconsistent with those set out under the Hazardous Substances and New Organisms Act 1996 ("HSNO") and associated regulations.

This submission is similar to submissions addressed in an earlier Section 42A Report No. 25 Hazardous Substances. The planner's response to submissions in that report

was in support of the Proposed District Plan's overall approach to hazardous substances. Overall, it was recommended that the approach of the Proposed District Plan is necessary in order to ensure the appropriate management of hazardous substances. The Proposed District Plan has sought to align its provision with HSNO and avoid any unnecessary duplication. However, in some instances duplication or more stringent controls are necessary in order to address a specific resource management issue not otherwise controlled by HSNO. I agree with this recommendation.

It is acknowledged that there are differences between the Appendix and the HSNO Act and associated regulations. The RMA and HSNO are designed to complement each other. The District Plan cannot override HSNO but can impose more stringent controls where it is necessary to address a resource management concern, or impose no controls where it is considered that the matter is already adequately addressed by HSNO.

Mostly the quantity triggers set out in Appendix VII of the Plan are in excess of HSNO, sometimes the same as, and in one or two instances no threshold has been provided (e.g. for below ground petroleum storage where the Council's concerns are adequately addressed through the HSNO controls).

The reform of the Health and Safety legislation appears to be moving towards an emphasis on work safe controls for hazardous substances, therefore it is important that the District Plan regulates hazardous substances to complement this and to ensure that site specifics and potential environmental effects are also taken into consideration.

5.2.2 Ecotoxics

The Department of Conservation (submission 64.23) opposes Appendix VII as it relates to ecotoxic hazardous substances. The submitter believes that the base class thresholds for ecotoxic hazardous substances do not reflect the quantity or toxicity of the hazardous substances to be stored. I have consulted with Rex Alexander, from Envirocom, on this submission and based my recommendation on his advice.

No specific quantities are provided for Ecotoxics in the Appendix. For this class of substance the table refers users to the base class threshold, with a note that where a resource consent is required for any substance that also has an ecotoxic class, then the ecotoxicity shall be taken into consideration. The reason for not including quantities for these substances is that very few of them are not also covered by another class categorisation. Each classification is taken on its own merit in terms of risk, and in reaching a trigger for a so called "primary" class, the class 9 was taken into account.

5.3 Formatting of concept plans in Appendix X

New Zealand Transport Agency (submission number 53.92) notes that the format of the concept plans is not standard and considers that some plans are illegible.

I agree that the concept plan for the Industrial 4 Zone is illegible. This is a formatting fault. In reducing the size of the concept plan to fit in the Proposed District Plan document, the text has become unreadable which reduces the effectiveness of this document. I have included the concept plan in a clearer format in **Appendix 2** of this

report. I believe there is no need to redraft the concept plan and that there is an administrative fix to this.

The concept plans are all formatted differently because they have been developed at different times and as a result of different processes showing different information. I do not believe they need to be reformatted to a standardised style.

5.4 Detail included in Appendix XI

The Invercargill City Council's Water Manager has submitted seeking the inclusion of the Council's reticulated water services on the maps in Appendix XI.

An appendix similar to Appendix XI was included in the Operative District Plan as part of a Variation, enabling a residence on existing properties in the Rural Zone that did not meet the two hectares minimum lot size, where that house was able to be connected to the Council's reticulated sewerage services. That rule was carried through to the Rural 2 Zone. However, the Appendix is also referred to in the Infrastructure provisions of the Proposed District Plan. The Infrastructure rule 3.9.3, as recommended in the Section 42A Report No. 19 Infrastructure, would read as follows:

"Any extension to the Council's reticulated sewerage system existing as at 30 July 2013 and/or shown in Appendix XI is a non-complying activity within the Rural 1, Rural 2 and Otatara zones."

A similar approach to extensions to the Council's reticulated water system would be consistent with the overall approach in the Proposed District Plan of encouraging the utilisation of existing infrastructure with preference for infill development within the urban areas, over urban sprawl and any accompanying demand for urban services. The location and extent of the existing reticulated water services is similar to the reticulated sewerage services. Extensions within the urban areas may be necessary, however the District Plan should be focusing on restricting any extensions into the non-urban areas. This rule and associated maps would give a firm direction to developers looking to develop in areas that could result in extensions to services.

Enabling extensions to Council's reticulated water services to areas that do not have reticulated sewerage services could result in adverse effects on the environment, through potential additional pressure on on-site effluent disposal systems.

I have included in Appendix 3 of this report maps of the District showing the existing Council reticulated water services. A note would need to be included following Rule 3.9.3 advising that while extensions to these services are permitted in the urban areas through the District Plan, there is no absolute guarantee that connections are possible or will be approved by the Council's Works and Services Department. For example, there are areas within the Residential 2 Zone in Bluff that cannot physically be serviced with Council's water supply due to the elevation and contours of the sites.

It should also be noted that this rule does not control connections to the existing services and is not intended to provide residents with an expectation that they will be able to utilise the services mapped. For example, there are some water pipes that are mains and that are not accessible for landowners to connect directly. These maps and the associated Utilities rule address the potential to extend the services without resource consent, due to the resource management planning implications.

Agreement for all extensions would also be required from the Council's Works and Services Department.

I have recommended that Rule 3.9.3 be amended from the wording I had previously recommended in the Section 42A report No. 19 Infrastructure. This change is in response to the submission from the ICC Water Manager. I have recommended removing the date from the rule so that the rule would apply only to the services shown on the maps. The maps show a proposed sewerage reticulation service south of the urban area servicing the Industrial 4 Zone which was not in existence on 31 July 2013. There are also some reticulated services that were in existence on 31 July 2013 that are not shown on the maps. In relation to water services for example, the maps only show the active pipes and exclude the Branxholme and Bluff supply lines and the Tisbury line. Private reticulated services are not shown.

In relation to the Council's reticulated water supply, an alternative may be to include maps showing the water supply catchment area which will give greater certainty to the Plan User as to whether they may be able to extend or connect.

6. DISCUSSION OF SECTION 32 MATTERS

Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan. This requires the preparation of an Evaluation Report. This section of the RMA was recently amended (since the notification of the Proposed District Plan) and the following summarises the current requirements of this section.

The first step of Section 32 requires that objectives are assessed to determine whether they are the most appropriate way to achieve the purpose of the RMA (as defined in Section 5).

The second step is for policies and rules to be examined to determine whether they are the most appropriate way to achieve the objectives. In this instance, the objectives are those proposed by the District Plan. This assessment includes requirements to:

- Identify the costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions (including effects on employment and economic growth)
- Identify other reasonably practicable options for achieving the objectives; and
- Assess the efficiency and effectiveness of the provisions in achieving the objectives.

Section 32AA of the RMA requires a further evaluation to be released with the decision. This further evaluation is to outline the costs and benefits of any amendments made after the Proposed District Plan was notified.

Section 32 states that Evaluation Reports need to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. This means that if in its decision the Hearings Committee recommends minor changes from what was in the Proposed Plan, a further evaluation can be relatively brief.

6.1 Relevant Section 32AA Matters

This section of the report evaluates the recommended changes to the provisions. The following is a summary of the changes recommended to the policies and rules:

- Concept Plan
- Amending Rule 3.9.3 and Appendix XI to include the Council's reticulated water services

The detail of the proposed changes to which this evaluation refers is set out in **Appendix 2**.

6.2 Section 32AA Further Evaluation

6.2.1 Concept Plans

It has been recommended that the formatting of the concept plan in Appendix X for the Industrial 4 (Awarua) Zone be tidied up so that it is legible. Due to the minor nature of the recommended changes it is not necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes. It is sufficient to state that a more easily interpretable plan can aid efficient and effective regulation, which can result in positive effects with respect to development within the Industrial 4 (Awarua) Zone. For this reason, the recommended approach is considered to be preferable to the alternatives of adopting the concept plan as notified.

6.2.2 Amending Rule 3.9.3 and Appendix XI to include the Council's reticulated water services

I have recommended that Rule 3.9.3 and Appendix XI be amended to restrict extensions to the Council's reticulated water services outside those shown on maps to be included in the Proposed District Plan.

This change addresses a resource management issue, particularly the sustainable management of the District's reticulated services and the District's land resource. The change also addresses the health and well-being of the community, particularly as it addresses efficiency issues and integration of infrastructure with the receiving environment.

The amendments are also consistent with the Objectives and Policies of the Proposed District Plan, particularly those that relate to the efficiency and effectiveness of the existing infrastructure and ensuring that the location and design of infrastructure avoids significant adverse effects.

The costs of this approach will be borne mainly by the developer wanting to extend services out into currently unserviced areas. This may restrict the range of development options in terms of activity types and intensities. The recommended changes will also add an additional matter for consideration at consent stage and may increase the administrative costs for developments.

The benefits will be received largely by the general public and ratepayers. The long term maintenance of extended services generally falls on ratepayers. The Council may also incur some costs at the time of extension, which may be passed on to ratepayers.

The Council has a consent from Environment Southland that limits the quantity of water it can take for reticulated services. It is highly likely that extensions to Council's reticulated water services will result in greater demand for water and put pressure on current and future water take consents. This may also have environmental effects for the water source.

The recommended changes are also aimed at encouraging infill development and regeneration of existing serviced areas within the District.

The alternative to that recommended is the status quo, retaining the non-complying activity status only for extensions to the reticulated sewerage services. It is my

opinion that the benefits for the Council, the environment and the wider public are greater with the recommended option. Not only is there an inconsistency in approach to the services with the status quo, but there could be an expectation that the Council has the capacity and ability to extend the water services. The costs would fall on the ratepayers and developers to extend and maintain the extended water service. Additional demand for water may result in the Council having to apply for an increased water take. This would put pressure on the finite water resource available to the Council. There are other potential environmental costs of the status quo. Should a developer be allowed to extend water services as a permitted activity and not reticulated sewerage services, there is the potential risk that properties may be able to get reticulated water services whilst relying on on-site effluent disposal systems. With unlimited water supply to a site, there is a greater risk that land owners will have less incentive to reduce their water use. On-site effluent systems are generally designed for a limited amount of water use and their viability can be threatened should too much waste be disposed of through the system. There are a number of adverse environmental effects that result from failing on-site effluent systems.

7. CONCLUDING COMMENTS

There are only a handful of submission points addressed in this report. However, these submission points address a range of issues. The recommendations in this report recommend carrying through the provisions largely as notified. The biggest change is to the approach on extensions of Council's reticulated services, specifically extensions to the Council's reticulated water services.

APPENDIX 1 - Recommendations in response to submissions

Submitter	Submission	Recommendation
General – Zoning		
71.70 **NZAS Ltd**	Support Rural 1 Zone in Planning Maps 22, 23, 27, 29, 30, 31 and 32. The submitter supports the Rural 1 Zoning adjoining the Smelter Zone and more generally on the Tiwai Peninsula. RELIEF SOUGHT: Retain the Rural 1 Zone.	**Accept** Retain the Rural 1 Zoning of the land adjoining the Smelter Zone.
Appendix VII - Hazardous Substances		
64.23 **Department of Conservation**	Oppose Ecotoxic hazardous substances in part. The base class thresholds for ecotoxic hazardous substances do not reflect the quantity or toxicity of the hazardous substances to be stored. RELIEF SOUGHT: Review Appendix VII to reflect the toxicity and quantity of the active ingredients such as 1080, brodifacoum, pindone and diphacinone found in baits used in pest animal control operations.	**Reject** See discussion in Section 5 of this report. RECOMMENDATION: Retain Appendix VII as it applies to ecotoxic hazardous substances.
71.68 **NZAS Ltd**	Oppose. The submitter opposes the inclusion of this Appendix, in particular because the submitter considers the limits are inconsistent with those set under the HSNO Act and associated regulations. RELIEF SOUGHT: Delete Appendix VII.	**Reject** See discussion in section 5 of this report. RECOMMENDATION: It is recommended that the Appendix be retained.

Submitter	Submission	Recommendation
Appendix X – Concept Plans		
53.92 **NZ Transport Agency**	Support. The submitter notes that the format of the concept plans is not standard and considers that some plans are illegible. RELIEF SOUGHT: Standardise the format of concept plans used, and ensure their legibility.	**Accept in part** The concept plans are set out in different formats. This is because each of the concept plans was developed individually at different times to address different issues. Where a concept plan was developed in response to a recent Plan Change it is not considered necessary to reformat that concept plan. The CBD Concept Plan was extracted from another Council policy document and relays quite different information to the other concept plans. It is accepted that the concept plan for the Industrial 4 Zone is illegible. The concept plan was extracted from decisions on Plan Change 8 which became operative in November 2009. When inserted into the Proposed District Plan document the concept plan was shrunk and, in the process, much of the detail is virtually impossible to decipher. RECOMMENDATION: Reformat Appendix X – 4 Concept Plan – Industrial 4 (Awarua) Zone to ensure that the information on the concept plan is legible.
Appendix XI – Council's Reticulated Sewerage Systems		
70.3 **ICC Water Services Manager**	The submitter considers that this should be extended to include the ICC water reticulation network as there is a strong link between the provision of water and sewerage services. RELIEF SOUGHT: Extend to include the ICC reticulated water network.	**Accept** See discussion in section 5 of this report. RECOMMENDATION: Amend Rule 3.9.3 as follows: "Any extension to the Council's reticulated sewerage system and reticulated water system services ~~existing as at 30 July~~

Submitter	Submission	Recommendation
		~~2013 and/or~~ shown in Appendix XI is a non-complying activity within the Rural 1, Rural 2, and Otatara Zones.[2] (Note: Any extensions or connections to Council's reticulated services will require approval from the Council's Works and Services Department and will be assessed on a case-by-case basis in consideration of factors such as the elevation of the site and the capacity of the infrastructure.) AND Amend the title of Appendix XI to show the water supply catchment area as follows: "Appendix CI – Council's reticulated ~~sewerage systems~~ services" AND Amend the maps included in Appendix XI to depict Council's reticulated water services.

[2] The text shown in blue is the recommendations made in response to submissions 65.92 and 65.11 set out in Section 42A Report 19 Infrastructure

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APPENDIX 2 - Recommended Changes to the Proposed District Plan

(Underline indicates recommended additions, strikethrough indicates recommended deletions.)

SECTION THREE - RULES

3.7 HAZARDOUS SUBSTANCES

No change.

3.9 INFRASTRUCTURE

Extensions

3.9.3 Any extension to the Council's reticulated sewerage system and reticulated water system ~~services existing as at 30 July 2013 and/or~~ shown in Appendix XI is a non-complying activity within the Rural 1, Rural 2, and Otatara Zones.[3]

(Note: Any extensions or connections to Council's reticulated services will require approval from the Council's Works and Services Department and will be assessed on a case-by-case basis in consideration of factors such as the elevation of the site and the capacity of the infrastructure.)

PLANNING MAPS

Planning Map 23 27, 29, 30, 31 - no change.

SECTION FIVE – APPENDICES

APPENDIX VII – HAZARDOUS SUBSTANCES - no change.

[3] The text shown in blue is the recommendations made in response to submissions 65.92 and 65.11 set out in Section 42A Report 19 Infrastructure

APPENDIX X – CONCEPT PLANS

1. Concept Plan – CBD – July 2013 – No change.
2. Concept Plan – Business 5 (Rural Service) Zone – No change.
3. Concept Plan – Industrial 3 (Large) Zone – No change.
4. Concept Plan – Industrial 4 (Awarua) Zone – see concept plan following.

4. CONCEPT PLAN – INDUSTRIAL 4 (AWARUA) ZONE

(When viewing an electronic version of this report, the concept plan can be viewed in a separate document - "s42A Report – Miscellaneous – Concept Plan".)

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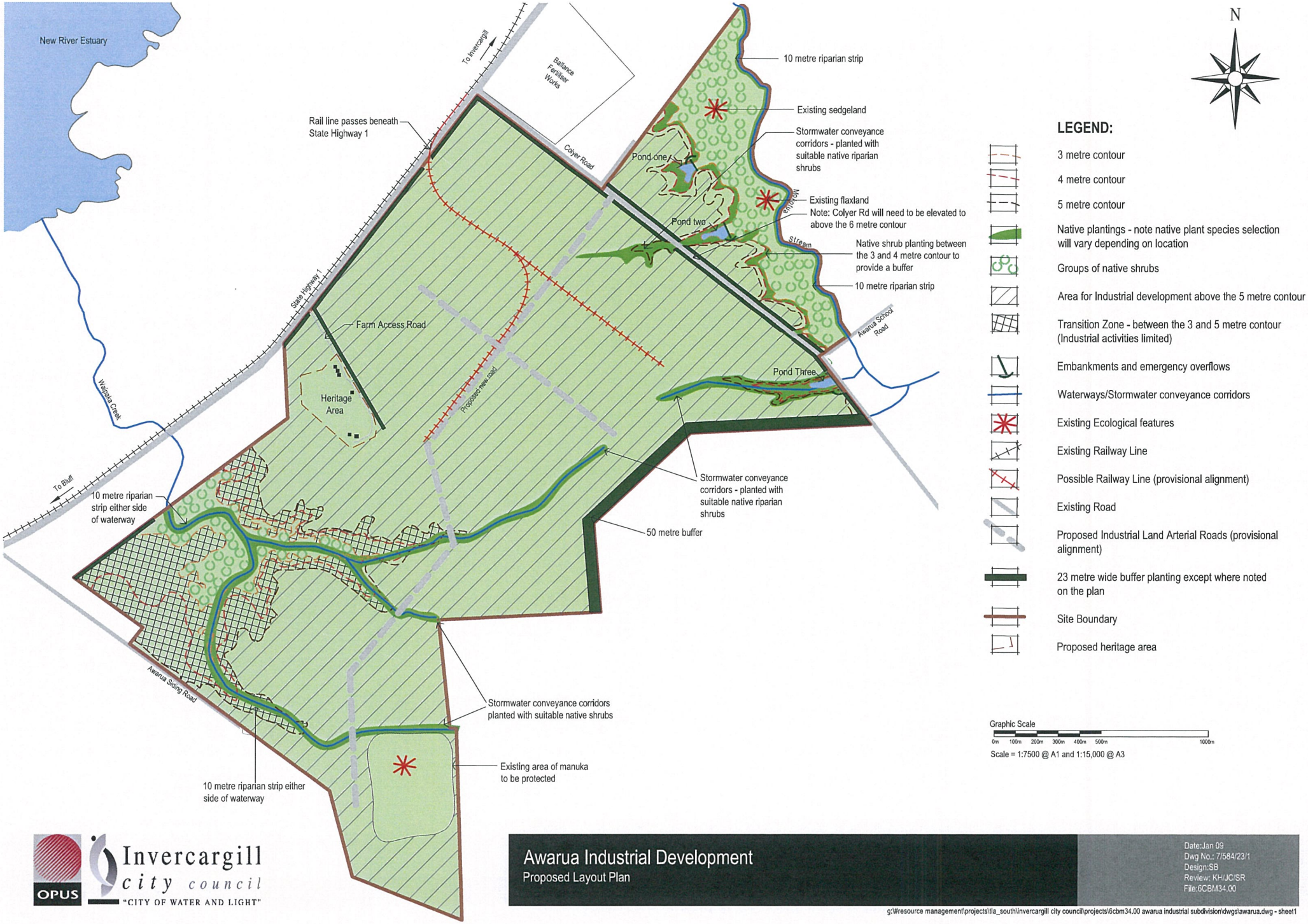

OPUS

Invercargill city council
"CITY OF WATER AND LIGHT"

Awarua Industrial Development

Proposed Layout Plan

Date:Jan 09
Dwg No.: 7/584/23/1
Design:SB
Review: KH/JC/SR
File:6CBM34.00

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APPENDIX 3 – Council's reticulated water services

(When viewing an electronic version of this report, the maps can be viewed in a separate document – "s42A Report – Miscellaneous – Appendix 3".)

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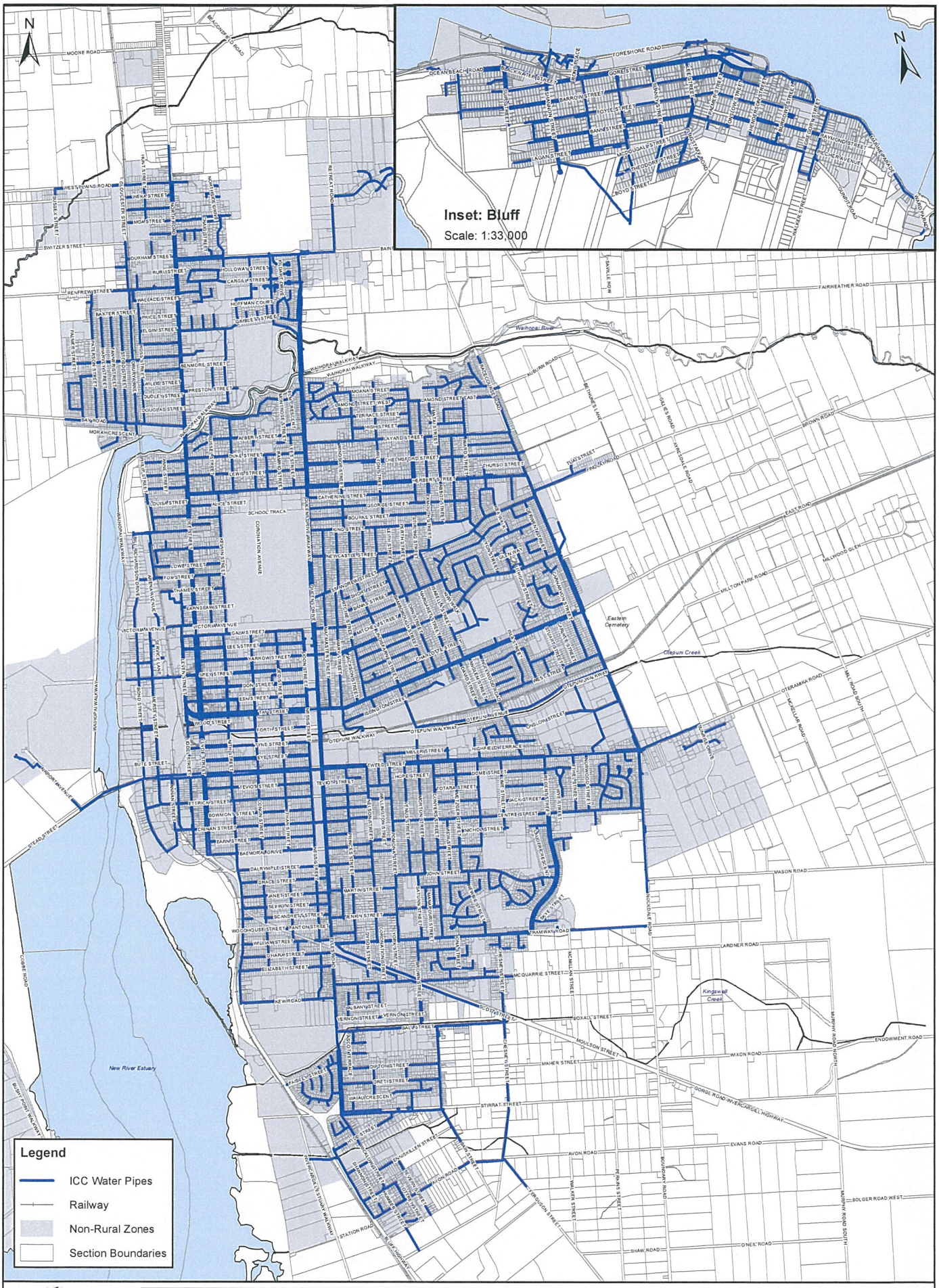

Invercargill City Council

Invercargill City Council
Reticulated Water System
Map 1 - Overview

Scale: 1:45,000
Date Printed: 29/7/2015

Cadastral information derived from Land Information New Zealand. Current to 4 July 2015
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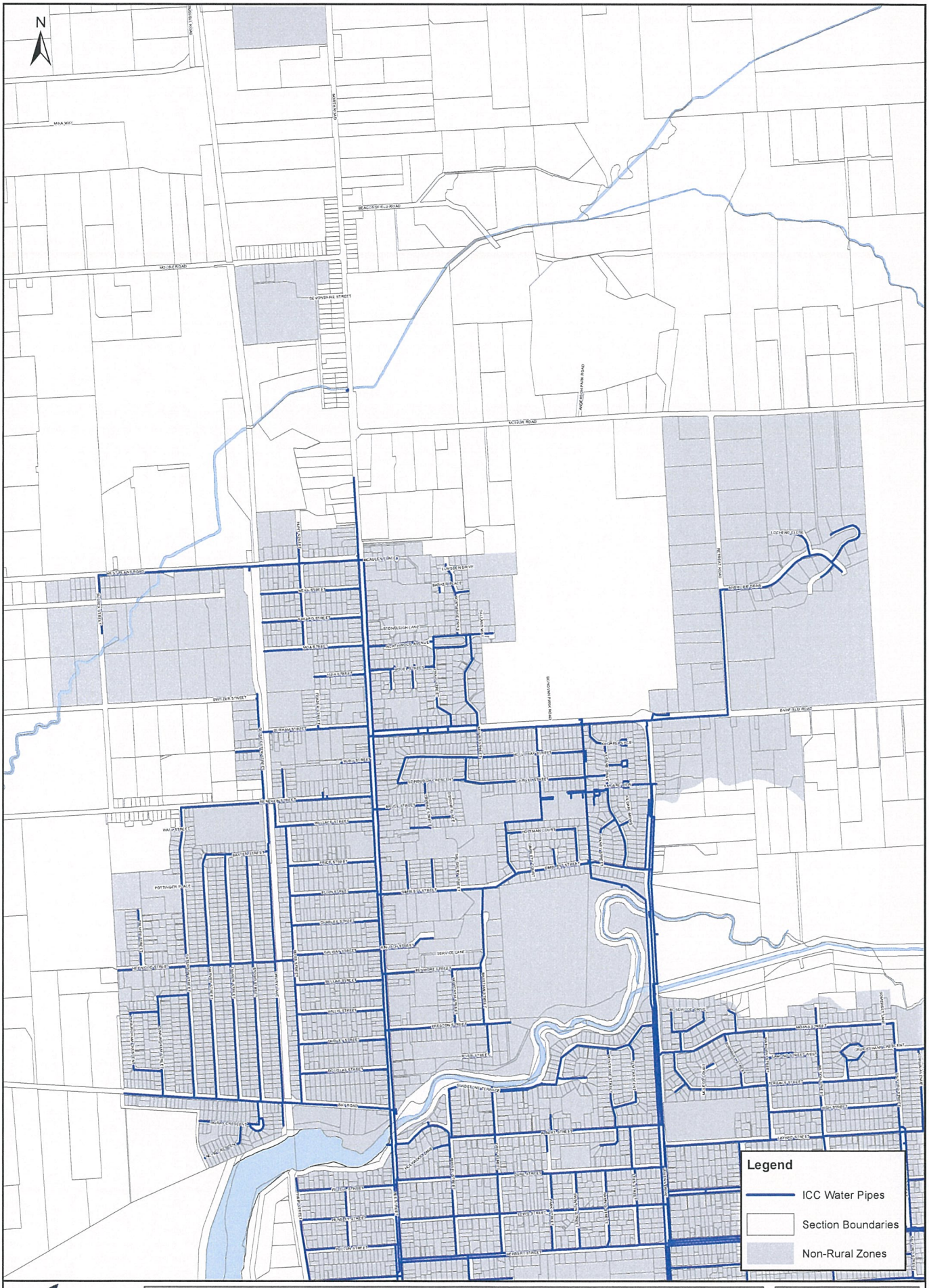

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Invercargill City Council
Reticulated Water System
Map 2 - North

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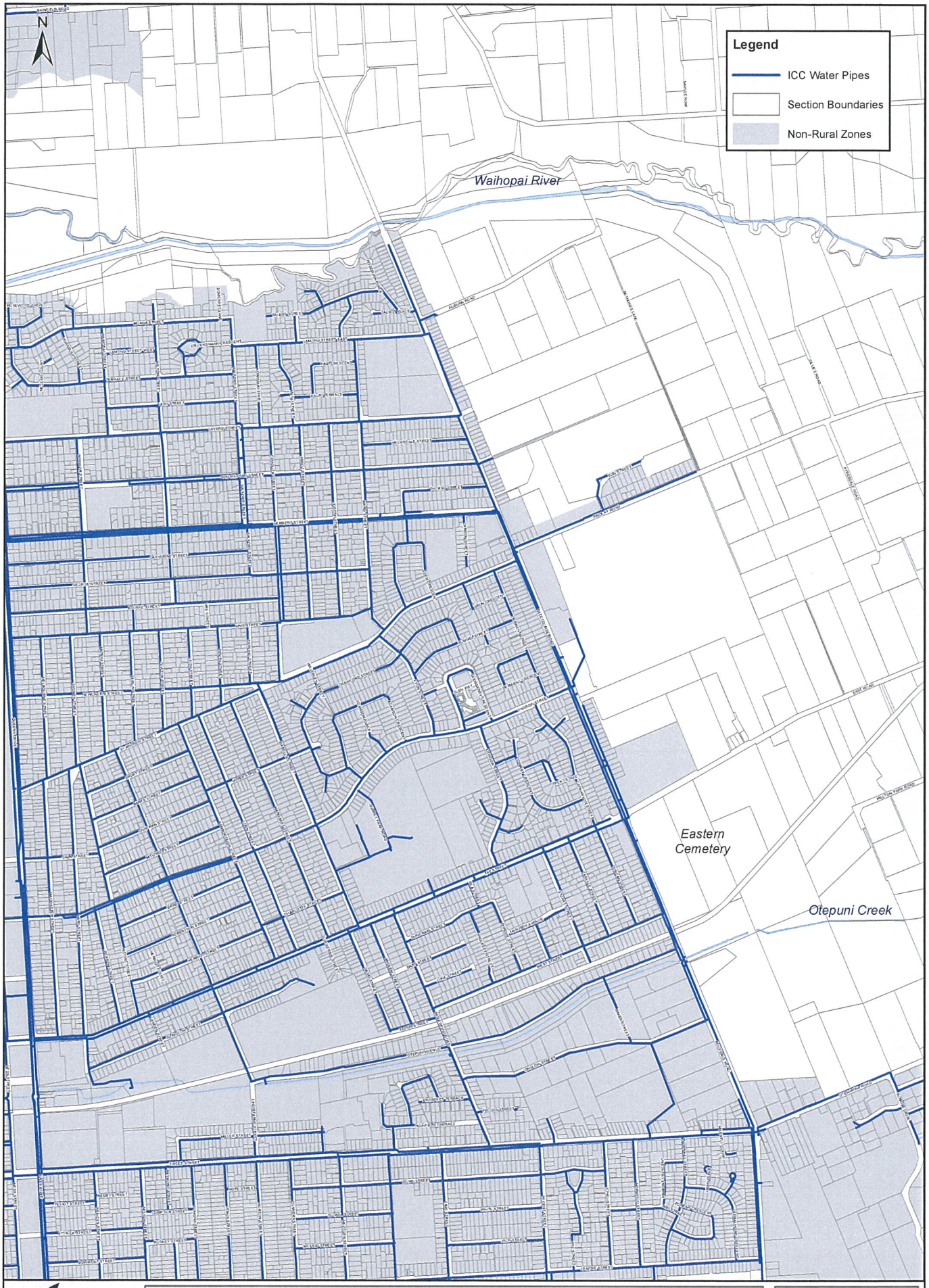

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Invercargill City Council
Reticulated Water System
Map 3 - North-East

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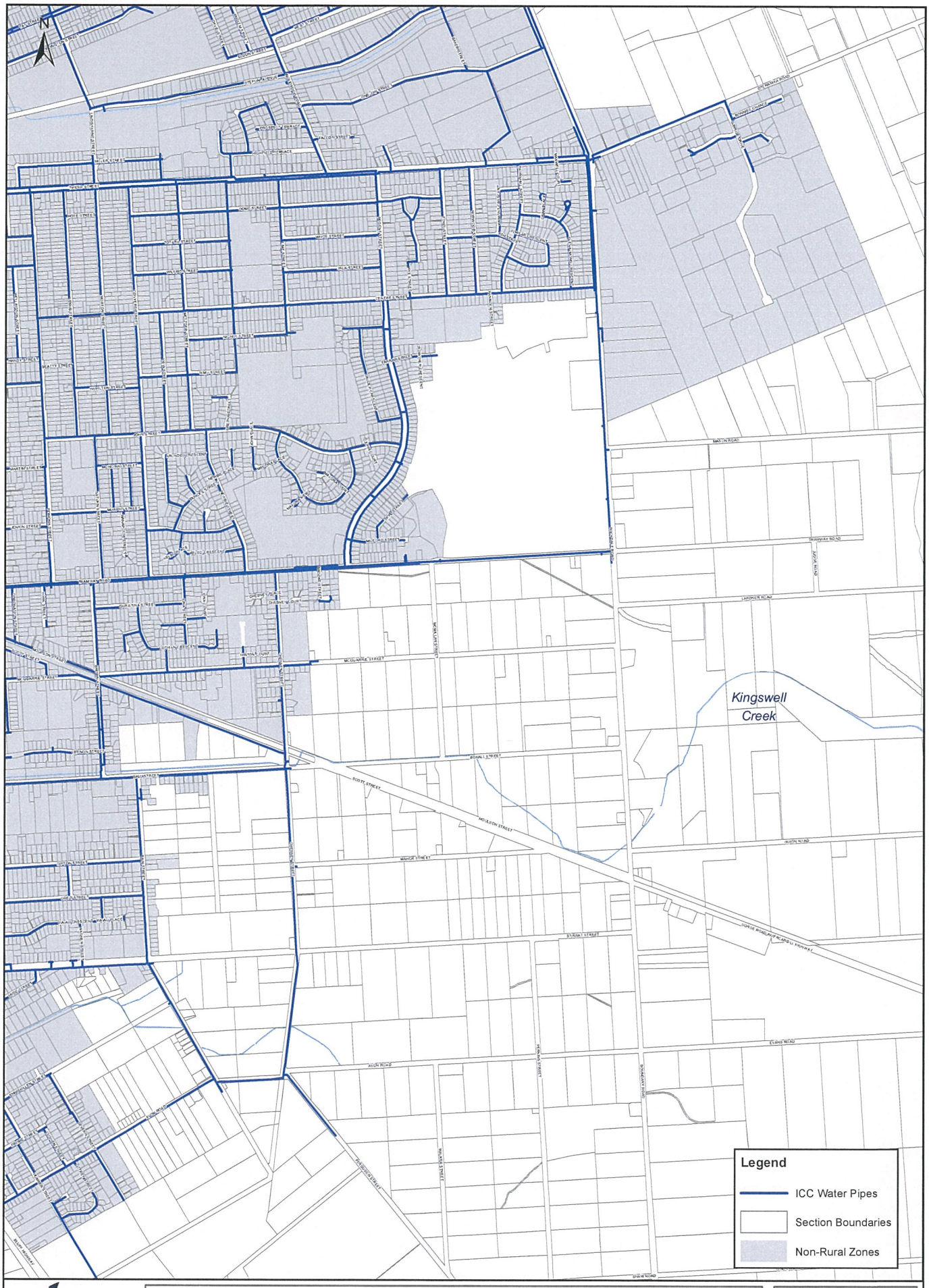

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Invercargill City Council
Reticulated Water System
Map 4 - South-East

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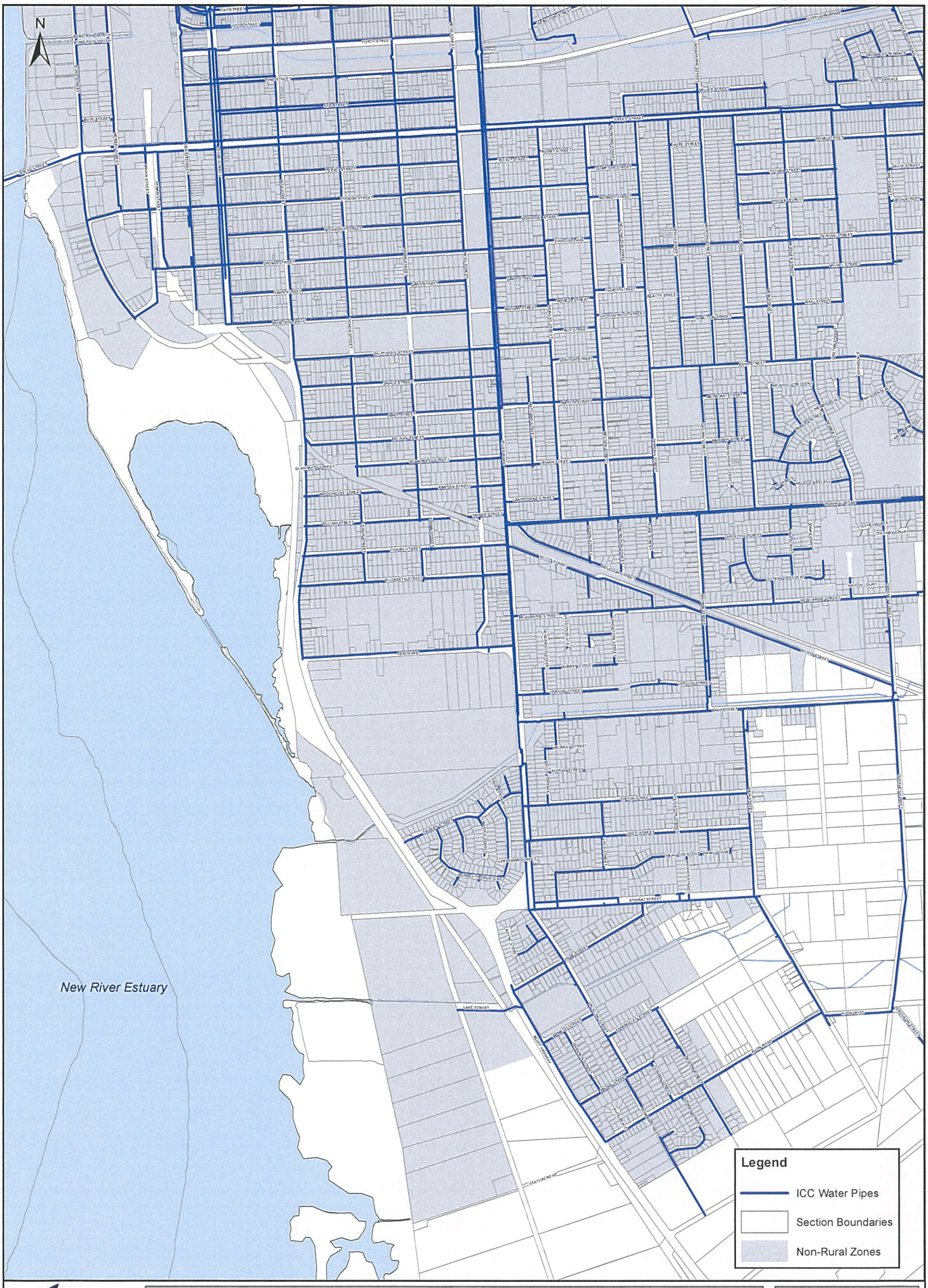

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CITY COUNCIL

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Invercargill City Council
Reticulated Water System
Map 5 - South-West

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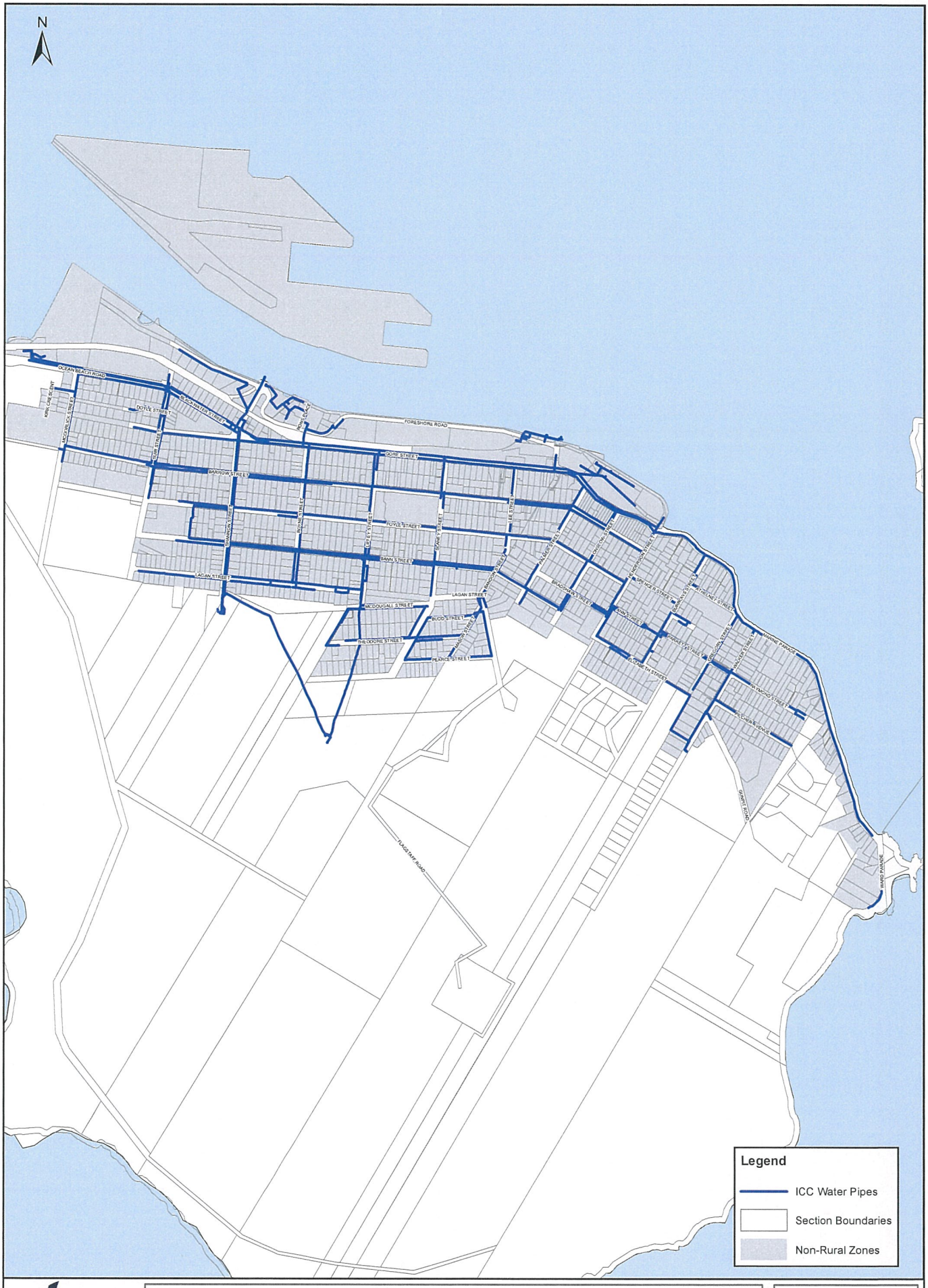

Invercargill City Council

Invercargill City Council
Reticulated Water System
Bluff

Scale: 1:17,000

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