



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 1

Amenity Values of the District

**5 May 2014, 9.00 am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING**

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1. EXECUTIVE SUMMARY

The concept of “Amenity Values” is fundamental to the Proposed District Plan. The Resource Management Act 1991 (the RMA) defines amenity values as:

“These natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes” (S.2 RMA)”

Section 2.2 of the Plan, Amenity Values of the District is the first item in the District-Wide section of the Proposed District Plan (the Plan). “Amenity values” is a foundation concept of the Plan.

The Plan takes an holistic view of “Amenity Values” – broadly speaking, “amenity values” include qualities that make an area attractive for a person or organisation to locate a land use activity on a particular site, and for other land uses to locate nearby. The “effects” of land use can impinge on the “amenity” of others. The Proposed District Plan uses zoning as a technique to group land uses with similar requirements for “amenity”, and sets standards for the level of “effect” that one land use can have on another.

This report addresses submissions on the “Issues” as set out in Section 2.2 of the Proposed District Plan, and also on objectives that relate to the amenity values applying to different zones in the Plan.

Nine points of submission were made on the subject of Amenity Values in the original submission process for the Proposed District Plan. The points ranged from general support to concerns about how practical it is to maintain and enhance “amenity values” (as interpreted by the submitter) in some locations.

In addition, numerous submissions were made about more specific points relating to “amenity values” (e.g. noise, lightspill). These are set out in the reports about submissions on subsequent sections of the Proposed District Plan.

Some amendments are recommended in order to assist readers of the Plan to interpret the concept of amenity values, and to clarify the extent to which amenity values are to be maintained and enhanced in some zones of the City as set out in the Proposed District Plan.

In this report:

- Part 2 outlines several key procedural issues.
- Part 3 sets out background to the Proposed District Plan approach to Demolition and Removal Activities.
- Part 4 summarises the various statutory provisions that apply to the consideration of the Proposed District Plan provisions.
- 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 s32AA of the RMA.
- Part 7 sets out the overall conclusions.

- Appendix 1 sets out 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

This report has been prepared by William J. Watt. My company, William J Watt Consulting Ltd, offers consultancy services in planning and resource management including research, consultation facilitation, policy formulation and evaluation, hearings commissioner and mediation roles. I am currently the sole practitioner in that company.

I hold the qualifications of Bachelor of Arts and Diploma of Town Planning. I am a Full Member of the New Zealand Planning Institute and also a Fellow of the New Zealand Institute of Management. I am also an accredited Hearings Panel Chairman under the MfE “Making Good Decisions” programme and a mediator accredited with LEADR. Before setting up my consultancy I had 40 years’ experience in local government in regional, local and project planning and senior management roles.

2.2 Peer Review

This report has been prepared by Dan Wells and John Edmonds, from John Edmonds and Associates Ltd. Both John Edmonds and Dan Wells are practising resource management planners with a variety of experience throughout the plan change preparation process. Dan Wells has a Bachelor of Resource and Environmental Planning (Hons) and a Post Graduate Diploma in Environmental Studies, both from Massey University. John Edmonds has a Bachelor of Regional Planning from Massey University.

2.3 How to Read this Report

This report is structured as follows:

- Introduction (Report Author, Peer Review, How to Read this Report, Interpretation, the Hearings Process)
- Background to the “Amenity Values” topic, and the provisions of the Plan
- 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 changes I am recommending under Section 32 AA of the RMA
- Concluding comments
- Appendix 1, detailing recommendations on individual submissions
- Appendix 2, detailing the recommended changes of the Proposed District Plan provisions relating to Amenity Values

Recommendations on individual submissions are set out in the table which forms **Appendix 1**. This table sets out the name and relevant submission number of those who submitted on the subject of Amenity Values, a brief summary of their submissions and decisions requested, followed by my recommendations and the reasons for them.

2.4 Interpretation

In this report, the following meanings apply:

“*Council*” means the Invercargill City Council.

“*FS*” means Further Submission

“*Hearings Committee*” means the District Plan Hearings Committee established by the Council under the Local Government Act

“*NES*” Means National Environmental Standard

“*NPS*” Means National Policy Statement

“*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 describe, collectively, Objectives, Policies and Rules

“*RMA*” means the Resource Management Act 1991

2.5 The Hearings Process.

A number of hearings are to be held to consider the submissions and further submissions lodged. These hearings have been arranged to ensure that submissions on similar issues have been grouped together, and to enable the Hearings Committee to make decisions on the provisions relating to those issues. This report applies to the Amenity Values provisions of the Proposed District Plan.

The Hearings Committee is comprised of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. The 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 in 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. This 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, after 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

3.1 General

This report relates to the provisions in the Proposed District Plan relating to “Amenity Values”

The concept of “amenity values” is fundamental to the approach taken by the Proposed District Plan. The tone of the Proposed District Plan was set initially by a previous publication; the Council’s non-statutory Spatial Plan entitled *The Big Picture*. The thrust of *The Big Picture* can be summarised as:

Invercargill should be a compact and well-connected city with a high level of amenity for all its citizens and activities, and a strong, vibrant city centre which is the focus of retailing, commerce and entertainment. (Underlining mine). Note this very early and strong emphasis on “amenity”.

Before the Proposed District Plan was drafted, the Plan Group responsible for its preparation received and considered a series of background papers on topics relevant to the Plan. These papers are “public information” in terms of the Local Government Official Information and Meetings Act, and are available from the Invercargill City Council. The Urban Issues and Options paper (June 2012) sets out theory on the concept of “amenity values” and on “zones” as areas of common or shared amenity.

The Proposed District Plan is based on land use zoning. The Proposed District Plan uses zoning as a technique to group land uses with similar requirements for “amenity values” and sets standards for the level of “effect” that one land use can have on another. This approach is consistent with that taken in the currently operative Invercargill District Plan.

3.2 Issues

Section Two of the Plan is entitled Issues, Objectives and Policies. Amenity Values of the District is the first subject addressed in this section, and is a foundation concept of the Plan. This section contains some discussion on the concept of amenity values and sets out two resource management issues.

3.3 Objectives and Policies

Objectives and policies relating to amenity values are dealt with on a zone by zone basis. All zones have objectives and policies that promote the maintenance and enhancement of amenity values. Discrete policies then specify how different elements of those amenity values are to be managed (e.g. policies on noise, lightspill).

3.4 Rules

There are no “district wide rules” for amenity as such. There are district wide rules for some dimensions of amenity e.g. transportation (parking and manoeuvring requirements). These will be addressed in subsequent reports.

3.5 Scope of this report

A broad range of issues relate to amenity values. For example, subjects or elements such as noise, glare, lightspill, architectural design, and landscape all affect the overall “amenity” of a site. These specific elements will be addressed through later reports on different issues and zones in the Proposed District Plan. The scope of this report is confined to the section of the Plan dealing with the over-arching issues, and some objectives in later chapters that relate directly to amenity values.

4. THE STATUTORY FRAMEWORK

There are a number of statutory requirements which guide the process and outline what must be considered in developing a District Plan. This section of the report details this statutory context.

4.1 Resource Management Act

4.1.1 General

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 or plan change, a local authority may decline, approve, or approve with modifications, the plan or change, and shall give reasons for its decisions.

Under Section 74 of the RMA, when preparing or changing its District Plan a council must consider Part 2 of the Act (purposes and principles), Section 32 (alternatives, benefits and costs) and relevant regional and district and lwi planning documents.

4.1.2 Part 2 of the RMA

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

The purpose of the RMA is set out in Section 5. I confirm that the provisions for managing amenity values fall within the purpose of the Act. In particular, policies and rules are designed to avoid, remedy or mitigate adverse effects on the environment in accordance with Section 5(2)(c) of the RMA.

Section 6 of the RMA sets out matters of national importance which must be recognised and provided for. None of these is specifically relevant to the issue of amenity values, but any of the following may be components of “amenity values” to varying degrees and in some instances:

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

- (f) *The protection of historic heritage from inappropriate subdivision, use and development*
- (g) *The protection of recognised customary activities.*

In my opinion the provisions as notified appropriately manage these issues through the holistic approach taken to the concept of “amenity values.”

Section 7 of the RMA requires “particular regard” for “other matters”, and specifies several such matters. In my view the most relevant are:

- (aa) *The ethic of stewardship*
- (c) *The maintenance and enhancement of amenity values:*
- (f) *Maintenance and enhancement of the quality of the environment:*

In my opinion the provisions relating to “amenity values” in the Plan demonstrate appropriate regard to these matters.

Section 8 of the RMA obliges persons exercising functions and powers under the RMA 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 Iwi has also occurred. Having read all the submissions it is my impression that the approach taken by Te Ao Marama in their submissions generally supports the approach taken to “amenity values” in the Plan.

4.1.3 Functions of Territorial Authorities under the RMA

Section 31 of the RMA states the functions of a territorial authority under the Act.

31 Functions of territorial authorities under this Act

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

All these matters relate to the concept of “amenity values”. In my view, the way in which the Proposed District Plan addresses the concept of “amenity values” is consistent with the functions of territorial authorities under the Act.

4.1.4 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 the Proposed District Plan Provisions in accordance with Section 32AA.

An analysis in accordance with Section 32AA is included later in this report.

4.2 The Relevant Planning 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 sections.

4.2.1 National Policy Statements

Section 75 of the RMA requires that a District Plan give effect to National Policy Statements. (NPS) The following NPS are currently in effect:

- Electricity Transmission
- Renewable Electricity Generation
- NZ Coastal Policy Statement
- Freshwater Management

The requirement to give effect to these National Policy Statements means that effects on amenity values can be expected to arise. For example, electricity transmission lines can detract from amenity values but must be provided for under the Electricity Transmission NPS.

The NZ Coastal Policy Statement is, in essence, about maintaining the “amenity” of the coastal environment and thus has more direct relevance to the maintenance and enhancement of amenity values.

4.2.2 National Environmental Standards

Section 44 of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard (NES).

The following NESs may be relevant to amenity values:

- Telecommunications facilities
- Electricity transmission
- Assessing and managing contaminants in soil to protect human health

While this report does not address rules in the Plan, it should be noted that the requirement to apply these NES can lead to adverse effects on amenity values. Two examples where this may occur are providing for telecommunications facilities and electricity transmission lines.

4.2.3 Regional Policy Statements

Under Section 75 of the RMA a District Plan must give effect to an operative Regional Policy Statement.

The focus of the Southland Regional Policy Statement is the physical environment and the state of the air, water and land resources. These directly impinge on the “amenity values” enjoyed on any particular site. In the sense that there is a direct link between amenity values and environmental quality, the whole Regional Policy Statement is relevant to the district planning subject of amenity values.

In particular, the following objectives and policies from the Southland Regional Policy Statement (1997) address matters directly related to amenity values.

Objective 9.1: To protect outstanding natural features and landscapes of the Region.

Objective 9.2: To avoid, remedy and mitigate adverse effects on ecosystems which contribute to the diversity of landscapes in the Region.

Policy 9.1: Identify and encourage the protection of outstanding natural features and landscapes within Southland.

Policy 9.2: Promote, and where appropriate provide for, the protection of significant trees, areas of indigenous forests and scrublands, groups of trees, wetlands and tussock lands which contribute to the diversity of landscapes within the Region.

Policy 9.3: Consult with the takata whenua and provide for Maori cultural and traditional spiritual values in relation to issues affecting landscapes and natural features.

Objective 10.2: To maintain and enhance the environmental quality of the Region’s built environment.

Policy 10.7: Recognise that changes to one component of the built environment can have adverse effects on other components of the built environment.

Objective 13.2: To avoid, wherever practicable, remedy or mitigate any adverse effects from the use and development of the natural and physical resources within the coastal environment.

Objective 13.3: To maintain and enhance public access to, and along, the coastal marine area.

Policy 13.18: Manage subdivision, use and development of land within the coastal environment to protect outstanding natural features and landscapes and to preserve the natural character of the coastal environment.

The issues and objectives as published in the Plan, including the amendments I am recommending in this report, would give effect appropriately to the (Operative) Regional Policy Statement.

4.2.4 Proposed Regional Policy Statements

Section 74 of the RMA also requires regard to be given to any Proposed Regional Policy Statement. This is a lower threshold than the requirement to “give effect to” an operative Regional Policy Statement.

The Proposed Regional Policy Statement for Southland 2012 was notified on 19 May 2012. The following objectives and policies most directly relate to the subject of amenity values:

Policy RURAL.2 – Land use change and land development activities: Manage subdivision, land use change and land development activities in rural areas of Southland, in a way that maintains and enhances existing amenity values and rural character.

Objective COAST.2 – Activities in the coastal environment: Infrastructure, port, energy projects, aquaculture, subdivision, use and development in the coastal environment are provided for and able to expand, where appropriate, while maintaining and enhancing public access and preserving natural character.

Policy COAST.3 – Protection of the coastal environment: Avoid subdivision, use and development that cannot be absorbed by the surrounding coastal environment, or is not sensitive to the natural character of the coastal environment unless it is considered necessary to protect economically important infrastructure, ports and renewable energy projects for the region.

Objective LNF.1 – Identification and protection of natural features and landscapes.

Policy LNF.1 – Identify and assess outstanding natural features and landscapes: To identify and assess Southland’s outstanding natural features and landscapes using, but not limited to, the following regional criteria:

- *natural science factors;*
- *aesthetic values;*
- *expressiveness;*
- *transient values;*
- *whether the values are shared and recognized;*
- *value to tangata whenua;*
- *historical and heritage association;*
- *the presence of water including in seas, lakes, rivers and streams.*
- *vegetation (native and exotic); and*
- *wild or scenic values.*

Policy LNF.2 – Identify and assess locally distinctive and valued natural features and landscapes: To identify and assess Southland’s locally distinctive and valued natural features and landscapes.

Objective URB.1 – Urban development: Urban (including industrial) development occurs in an integrated, sustainable and well-planned manner which provides for positive environmental, social, economic and cultural outcomes.

Policy URB.2 – Urban development: Manage urban growth and development in ways that:

- (a) support existing urban areas;*
- (b) promote development and/or redevelopment of existing urban areas ahead of greenfield development;*
- (c) promote urban growth and development within areas that have existing infrastructure capacity; d) plan ahead for the expansion of urban areas; and*
- (e) promote compact urban form.*

Policy URB.4 – High quality urban design: Encourage high quality urban design.

Policy URB.5 – Land use activities - Provide for a range of land use activities within urban areas.

In addition, like the operative Regional Policy Statement, much of the 2012 Proposed Regional Policy Statement relates indirectly to amenity values. The focus of these documents is the integrated management of Southland's natural and physical resources.

In my view, careful regard has been had to these regional objectives and policies in preparing the Objectives and Policies in the Plan and in the recommendations contained in this report.

The concept of "amenity values" is central to the way that the Invercargill City Council has chosen to address its functions in relation to land use.

4.2.5 Regional Plans

Section 74 of the RMA provides that a District Plan must not be inconsistent with a Regional Plan.

Of the Regional Plans in effect, the Regional Air Quantity Plan and the Regional Coastal Plan relate most directly to the concept of amenity values developed in the Plan. The Regional Coastal Plan has particular relevance to the Invercargill City District Plan, however this will be dealt with through a separate report that addresses Section 2.4 of the Plan – Coastal Environment.

4.2.6 Iwi Management Plans

Section 74 of the RMA requires that a territorial authority takes into account any relevant planning document recognised by an iwi authority and lodged with the authority.

Ngai Tahu has lodged an Iwi Management Plan with the Council. The relevant document is *Ngai Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Taura*.

At section 1.7 of that Plan it is noted that this Iwi Management Plan is applicable to Resource Management Act 1991 planning processes but also that it has a “broader” environmental focus encompassing other legislation.

The concept of “Amenity Values” as developed in the Proposed District Plan is, in my view, complementary to the values espoused in *Te Tangi a Tauria – the Cry of the People*.

4.2.7 Management Plans and Strategies prepared under other Acts

A territorial authority preparing a District Plan is required to have regard to management plans and strategies prepared under different Acts. In Invercargill, the following are particularly relevant:

- The Invercargill City Centre Outline Action Plan and The Big Picture are non-statutory plans but are intended to provide direction on the land uses and levels of amenity anticipated in different parts of the City District.
- Management plans have been prepared for all the parks and reserves in the City District pursuant to the Reserves Act 1977.
- Activity Plans and Asset Management Plans must be prepared by a territorial authority to enable it to complete its Long Term Plan and Annual Plan obligations under the Local Government Act 2002.

In my view, the provisions of the Proposed District Plan and the contents of the background papers demonstrate that regard has been had to these documents in the course of its preparation.

5. ANALYSIS OF THE SUBMISSIONS

Nine points of submission were received on the subject of amenity values. No further submissions were lodged on these issues. Detailed responses to the individual submission points are included within **Appendix 1**. The following is a discussion on the principal matters raised.

Three submissions were received on the introductory text regarding amenity values (Section 2.2). All were in support. These submissions were from the Royal Forest and Bird Protection Society, Federated Farmers, and the Otatara Landcare Group.

Two submissions commented on the issues set out in Section 2.2.1. Federated Farmers made some general comments about how they wish to see “amenity values” addressed in the Proposed District Plan. These comments can be noted at this stage and taken into account when considering other changes sought by this submitter to other parts of the Plan. However, to reflect better the points raised in this and other submissions, I am recommending a slight revision to the third paragraph of the introductory Section (2.2), to read as follows:

“Amenity values vary from place to place and ~~person to person~~ according to the perspective of the individual. However, shared common amenity values are apparent. Areas which share amenity values in this way are identified and recognised as zones.”

Kiwi Rail Holdings Ltd sought a specific change to the Issues section to recognise that “reverse sensitivity” effects can affect amenity values. I am recommending that this submission be accepted by making the following change to 2.2.1 Issue 1:

“1. Subdivision, land use and development can have adverse effects on the amenity values of the district, including reverse sensitivity effects.”

All zones in the Proposed District Plan have objectives stating that amenity values are to be maintained and enhanced. Some submissions questioned whether this is a reasonable expectation in the Rural 1, Rural 2, Industrial 3 and Smelter Zones.

With respect to the Rural 1 Zone, Federated Farmers sought that 2.40.2 Objective 2 be amended to place emphasis on “*encouraging*” landowners to maintain and enhance amenity, rather than “*requiring*”. I would not support this amendment as I consider this would weaken the Council’s ability to consider amenity values through resource consent processes in this Zone.

With respect to the Rural 2 Zone, I accept Federated Farmers’ submission that it needs to be made clear that some urban development is anticipated in parts of this zone and that this should not be seen as inconsistent with the objective relating to amenity values. However, I am recommending wording that is slightly different than that sought by the submitter. My recommended changes are listed in **Appendix 2**.

With respect to the Industrial 3 Zone, Agri-Nutrients Ltd has expressed concern about whether it is appropriate to “*maintain and enhance*” amenity values, in view of the existing uses and purpose of this zone. I agree that this policy should not be interpreted in a manner that would interfere with the intended uses of this zone. I am recommending that the policy be amended to avoid the risk of such interpretations. My recommended changes are listed in **Appendix 2**.

With respect to the Smelter Zone, NZAS Ltd submits that the Objective seeking the identification, maintenance and enhancement of amenity values should be deleted. The Proposed District Plan (as notified) is clear that the effects on amenity values do not need to be managed within this zone (for example, to minimise nuisance on residential areas in Bluff) and that there is an expectation that amenity values be enhanced in the event that the smelter activities were to discontinue. In my view it would be an anomaly not to have a policy relating to amenity values in this zone. Further, I consider that it could be argued that the statutory requirements of the New Zealand Coastal Policy Statement, the Regional Policy Statement and the Regional Coastal Plan may not be met if the policy in the (District) Plan were to be deleted. On the other hand, I acknowledge the concern of the submitter that this objective could be interpreted in such a way as to lead to an unreasonable restriction on anticipated activities within the Smelter Zone. I am therefore recommending (in **Appendix 1**) some changes to the Objective to prevent such interpretations and make it clear that smelter-related activities are anticipated within the Zone.

6. SECTION 32 MATTERS

Section 32 of the Act establishes the framework for assessing the objectives, policies and rules proposed in a District Plan. An Evaluation Report must be prepared.

That report was prepared and published simultaneously with the notification of the Plan.

Amendments to Section 32 of the Act came into force in December 2012, since the notification of the Plan. These amendments affect any changes that may be made to the Plan following consideration of submissions and further submissions. The following is a summary of the current requirements.

The first task under Section 32 is to assess the objectives, determining whether they are the most appropriate way to achieve the purpose of the Act as defined in Section 5. Subsequent tasks are the assessment of policies and rules – are they the best and most efficient ways to achieve the objectives?

This report does not recommend any further changes to the policies and rules already published in the Plan.

Further, there is no requirement that changes to the issues and the explanatory text be assessed in accordance with Section 32 of the Act.

However Section 32AA does require that a further Evaluation Report be released with decisions on submissions and further submissions. That Section states that Evaluation Reports must include 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 changes from what was in the (Proposed) Plan, an Evaluation Report must be prepared. If those changes are minor, then the Evaluation Report can be brief.

This section of the report, therefore, evaluates only the changes I have recommended to the Objectives relating to Amenity Values. These changes are set out in **Appendix 2**. They are to:

- 1.1 Objective 4 of the Industrial 3 Zone
- 1.2 Objective 1 of the Rural 2 Zone
- 1.3 Objective 2 of the Smelter Zone

In my opinion, the proposed changes to these objectives will be the most appropriate means in which to achieve the purpose of the Act. The changes recognise more explicitly that certain activities can be anticipated in these zones without compromising the amenity values anticipated.

The Industrial 3 Zone and the Smelter Zone are the way the Plan enables activities which are important for what is described on page 2-108 of the Plan as:

“Maintenance of “critical mass” – creation and maintenance of jobs (which) is the most important overall issue in enabling the Invercargill community to provide for its future well-being.”

Enabling industrial activities to occur in these (and other) zones will enable the people and communities of Invercargill to provide for their social, economic and cultural well-being.

Similarly, in recognising the potential for some urban expansion in the Rural 2 Zone, the Plan enables a response to a demand for new housing which may become apparent if significant new industrial development does occur. In this way, these provisions of the Plan enable the people and communities of Invercargill to provide for their social, economic and (indirectly, through other provisions of the Plan) cultural well-being.

7. CONCLUSION

The “Amenity Values of the District” section of the Proposed District Plan attracted a small number of submissions. I recommend some minor amendments to the Issues section and associated explanatory text to aid interpretation of this part of the Plan.

I have also recommended some minor changes to:

- Rural Zone – Objective 1
- Industrial 3 Zone – Objective 4
- Smelter Zone – Objective 2.

These changes clarify the general amenity envisaged, and also that certain activities are anticipated which would be consistent with this level of amenity.

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APPENDIX 1: RECOMMENDATIONS BY SUBMISSION

Submitter	Submission	Recommendation
INTRODUCTION		
48.8 Forest and Bird Society	Support.	Accept
54.7 Otatara Landcare Group	Support.	Accept
88.23 Federated Farmers	Support. The submitter in particular supports the comment that: <i>“Amenity values vary from place to place and person to person”</i>	Accept
SECTION 2.2		
2.2.1 Issues		
88.24 Federated Farmers	<p>The submitter supports the plan provision in part. The submitter supports amenity values being considered at a general level rather than tying them directly to specific landscapes and considers that normal farming activities, including earthworks, vegetation planting and clearance are entirely appropriate activities within a dynamic working rural landscape that changes over time. The submitter believes that Council needs to recognise that the valued characteristics of the rural Invercargill district are generally those that have been created or enhanced, and most importantly maintained by normal farming activities that are entirely appropriate within a dynamic working rural landscape, and it is important that the plan appropriately addresses these matters and the positive cultural, social, economic and environmental effects of farming.</p> <p>The submitter reiterates their support for the use of non-regulatory methods in this area.</p> <p>The submitter seeks that Council recognises that:</p> <ul style="list-style-type: none"> • Amenity values within rural Invercargill are generally those that have been created, enhanced or maintained through normal farming activities; • Farming activities are entirely appropriate within a dynamic rural landscape; and that • Non-regulatory methods are preferable to the use of regulation in this area. 	<p>No decision is required</p> <p>The points are noted and will be taken into account when considering other changes sought by the submitter.</p>

Submitter	Submission	Recommendation
79.3 KiwiRail Holdings Ltd	<p>Oppose in part. The submitter considers that there should be greater recognition of reverse sensitivity effects and notes that subdivision location and design can have an early and permanent impact on the avoidance of reverse sensitivity effects to infrastructure networks</p> <p>The submitter seeks to amend Issue 1, 2.2.1 as follows:</p> <p>“1. Subdivision, land use and development can have adverse effects on the amenity values of the district, <u>including reverse sensitivity effects.</u>”</p>	<p>Accept</p> <p>Section 2.2 of the Plan is a high-level discussion around “amenity values”. It is appropriate to note “reverse sensitivity” as an issue which can arise when e.g. a new land use (such as a lifestyle block) is introduced to a farming area where traditional activities prevail.</p> <p>Recommendation</p> <p>Amend Issue 1, 2.2.1 as follows: “1. Subdivision, land use and development can have adverse effects on the amenity values of the district, <u>including reverse sensitivity effects.</u>”</p>
INDUSTRIAL 3 ZONE		
2.32.2 Objective 4		
15.13 Ballance Agri-Nutrients Ltd	<p>The submitter Support s Objective 4 in part.</p> <p>The submitter is concerned by the outcome sought by Objective 4 that amenity values be maintained <u>and</u> enhanced, which it considers to be inappropriate in areas where lawfully established industrial land use activities already contribute to and have set the character and amenity of the area. Further, given the nature of industrial activities, the submitter considers it may not be possible to provide for the enhancement of amenity values in all instances and therefore the objective should acknowledge this fact through the inclusion of the words “where appropriate”.</p>	<p>Accept</p> <p>Although the Plan takes a broad view of “amenity values”, the submitter makes a valid point that enhancement of amenity values is not always practicable.</p> <p>Recommendation</p> <p>Amend Objective 4 as follows:</p> <p>Objective 4: <i>The identification, maintenance <u>and</u> <u>or</u> enhancement of the amenity values of the Industrial 3 Zone <u>where practical.</u></i></p>

RURAL 1 ZONE		
2.40.2 Objective 2		
88.42 Federated Farmers	<p>The submitter opposes this Objective in part. The submitter is opposed to any protection of a rural ideal in the rural area of the District and considers that any objective set in the rural area must appropriately acknowledge the importance of also enabling continuation as a working rural environment. The submitter seeks to amend the wording of the proposed Objective as follows:</p> <p>“The amenity values of the Landowners within Rural 1 Zone are encouraged to maintained and or enhanced amenity values.”</p>	<p>Reject</p> <p>It is important that an Objective is included in the Plan that forms a robust basis for considering effects on amenity in the Rural 1 Zone.</p>
RURAL 2 ZONE		
2.41.2 Objective 1		
88.50 Federated Farmers	<p>The submitter supports this Objective in part. The submitter considers that the zone is separated from the Rural 1 Zone specifically to provide for urban growth, and this should be reflected in the Objective. The submitter seeks to amend the wording of the proposed Objective as follows:</p> <p><u>“The amenity values of the Rural 2 Zone are maintained and or enhanced while providing for managed urban growth.”</u></p>	<p>Accept</p> <p>It is recommended that at 2.41.2 Objective 1 be re-worded to read:</p> <p><i>Objective 1: The amenity values of the Rural 2 Zone are maintained and or enhanced <u>while providing for managed urban growth in specified areas</u></i></p>

SMELTER ZONE		
2.43.2 Objective 2		
71.31 NZAS Ltd	<p>The submitter opposes Objective 2 and seeks its deletion. The submitter considers that it is unclear what particular “amenity values” are meant to be identified, maintained and enhanced, and how these amenity values are related to the smelter.</p>	<p>Accept in part</p> <p>It is accepted that some amendments are appropriate to ensure that activities that are anticipated in the Smelter Zone are not constrained unreasonably by amenity expectations. On the other hand, the Plan would be incomplete without some recognition of amenity values in the Zone. The main thrust of the Plan with respect to the Smelter Zone is to internalise adverse effects on amenity values within the zone and to control the amenity effects that cross the zone boundary. The Plan should be amended to reflect this.</p> <p>Recommendation: Amend Objective 2 to read:</p> <p>Objective 2: <u><i>The containment of adverse effects on amenity values within the Zone boundary, and where practical the identification, maintenance and enhancement of amenity values</i></u> identification, maintenance and enhancement of the amenity values.</p>

APPENDIX 2: RECOMMENDED CHANGES TO THE DISTRICT PLAN

(New wording is underlined; deletions are struck through: ~~struck through~~)

2.2 Amenity Values of the District (page 2-3)

For the purposes of this District Plan, amenity values have been identified as:

“Those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.” (S.2 Resource Management Act 1991)

It is these amenity values when combined that provide the context and opportunity for the district to evolve and develop.

Amenity values vary from place to place ~~and person to person~~ and according to the perspective of the individual. However, shared common amenity values are apparent. Areas which share amenity values in this way are identified and recognised as zones.

Amenity values are an amalgamation of physical qualities and attributes of an area and development decisions made in the past.

2.2.1 Issues (Page 2-3)

Significant resource management issues for amenity values of the district are:

1. Subdivision, land use and development can have adverse effects on the amenity values of the district. Including reverse sensitivity effects.
2. Amenity conflicts often arise when subdivision occurs or land use changes.

Note: Objectives and policies relating to “amenities” are set out on a zone by zone basis.

2.32 Industrial 3 Zone (Page 2-122)

Objective 4: *The identification, maintenance ~~and or~~ enhancement of the amenity values of the Industrial 3 Zone where practical.*

2.41 Rural 2 Zone (page 2-169)

Objective 1: The amenity values of the Rural 2 Zone are maintained ~~and or~~ enhanced while providing for managed urban growth in specified areas.

2.43 Smelter Zone (page 2-178)

Objective 2: The containment of adverse effects on amenity values within the Zone boundary, and where practical the identification, maintenance and enhancement of amenity values ~~Identification, maintenance and enhancement of the amenity values.~~