



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 14

General Issues - Formatting

**25 August 2014, 9.00am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING**

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POLICY PLANNER**

**Peer Reviewed by: John Edmonds and Dan Wells
JOHN EDMONDS AND ASSOCIATES LIMITED**

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1. EXECUTIVE SUMMARY

This report is on the formatting submissions of the Proposed District Plan

The layout for the Proposed District Plan is based on a cascading logic and has been separated into five sections; Section One Introduction; Section Two Issues; Objectives and Policies; Section Three Rules; Section Four Definitions; and Section Five Appendices.

The provisions in Sections Two and Three are framed around two key sections: district wide provisions and zone specific provisions. The district wide provisions cover general matters applicable to the whole district and the zone specific provisions provide opportunities for activities which are in keeping with the character and amenity sought for each area.

In developing the Proposed District Plan the Council's Plan Group has endeavoured to achieve a more focused and streamlined document than provided by the Operative District Plan. This has been done by removing the Sections of the Operative District Plan that are not required by the RMA. This includes Section Five Anticipated Environmental Results, Section Six Cross Boundary Issues, and Section Seven Monitoring and Review.

Eight submissions were received on the format of the Proposed District Plan and raised concerns with its usability and layout. It was suggested by the submitters that this could be improved by including cross referencing, restructuring, changing some zone policies to district wide policies, and by tidying up the provision headings.

Overall it is considered that the Proposed District Plan has clear logic and flow but it is accepted that some reformatting and further clarification on how to apply the provisions should be undertaken in order to provide a more user friendly document.

2. INTRODUCTION

2.1 Report Author

My name is Joanna Louise Shirley. I am a Policy Planner at the Invercargill City Council, a position I have held since February 2014. I hold a Bachelor of Environmental Management and am an associate member of the New Zealand Planning Institute. I have five years experience in the planning field as a Resource Management Officer, which has involved implementing the District Plan and producing various planning documents.

2.2 Peer Review

This report has been peer reviewed 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 Development Studies, both from Massey University. John has a Bachelor of Regional Planning 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 format of the Proposed Invercargill City District Plan 2013.
- Description of the statutory framework
- Analysis of the submissions, including a discussion of the key issues raised through the submissions and further submissions received.
- Discussion of Section 32 Matters.
- Concluding comments.
- Recommendations on individual submissions.
- Tracked changes of the Proposed District Plan

To see my recommendation on an individual submission please refer to the table in **Appendix 1**. The table sets out the name and relevant submission number of those that submitted on formatting; 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

2.5 The Hearing Process

A number of hearings are to be 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 applies to the general formatting provisions of the Proposed District Plan.

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 s42A 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 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

This report is on the formatting submissions of the Proposed District Plan

The layout for the Proposed District Plan is based on a cascading logic and has been separated into five sections.

Section One (Introduction) provides an overview of the District Plan and the regulatory framework.

Section Two states the significant resource management issues, the objectives and the policies that the District Plan seeks to achieve. The provisions are framed around two key sections: district wide provisions and zone specific provisions. The district wide provisions cover general matters applicable to the whole district. The district has also been divided spatially into zones. Each zone has specific provisions providing opportunities for land use, subdivision and development that is in keeping with the character and amenity sought for each area. There is at least one objective and policy for each significant resource management issue. This section also gives a broad indication of the methods to be used to implement the policies.

Section Three, containing the rules, establishes minimum environmental standards that can be enforced. The rules, like Section Two, have been divided into district wide rules and zone specific rules. The rules determine the activity status of activities and may address more than one objective and/or policy. Within the Rule Section notes are also provided where further clarification is considered necessary or there is a particular issue that must be considered.

Section Four lists the Definitions of terms used in the District Plan.

Section Five contains the Appendices to the District Plan.

In developing the Proposed District Plan the Council's Plan Group has endeavoured to achieve a more focused and streamlined document than provided by the Operative District Plan. This has been done by removing the Sections of the Operative District Plan that are not required by the RMA. This includes Section Five Anticipated Environmental Results, Section Six Cross Boundary Issues, and Section Seven Monitoring and Review.

4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

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 change, and shall give reasons for its decisions.

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

Section 75 of the RMA sets out the content of a District Plan but it is at the discretion of the Council as to how the information is presented. I can confirm that the Proposed District Plan contains the required information set out in Section 75(1) and (2) and gives effect to the national policy statements, the New Zealand coastal policy statement, and Southland's Regional Policy Statement.

5. ANALYSIS OF SUBMISSIONS

Eight submission points were received on the format of the Proposed District Plan. The key concerns of the submitters were on the usability and the layout of the Plan. The submissions suggest that the Plan can be made more user friendly by including cross referencing, restructuring Section Three, changing some zone policies to district wide policies, and tidying up the provision headings. The submissions are summarised in table format, along with recommended responses, in Appendix 2 of this report.

Overall I consider that the Proposed District Plan is clear with sound logic and flow. However I do agree with the submitters that the document could be made more user friendly by some simple formatting changes and by adding an explanation on how to apply the provisions.

6. DISCUSSION OF SECTION 32 MATTERS

Section 32 of the RMA states the Council's obligations in assessing the alternatives, benefits and costs. A Section 32 analysis was released at the time of notification which assessed the alternatives, benefits and costs of the provisions of the Proposed District Plan.

As this report is concerned with format only and does not alter the provisions of the Plan an assessment under Section 32 of the RMA is not required.

7. CONCLUDING COMMENTS

The layout for the Proposed District Plan is based on a cascading logic. The provisions are framed around two key sections: district wide provisions and zone specific provisions. The district wide provisions cover general matters applicable to the whole district and the zone specific provisions provide opportunities for activities which are in keeping with the character and amenity sought for each area.

In determining what rules apply to an activity the zone rules specific to the site and all of the district wide rules must be considered. In addition to this, consideration must also be given to all of the district wide objectives policies and the zone specific objectives and policies.

The submissions raised concerns with the usability and the layout of the Plan. It was suggested that this could be improved by including cross referencing, restructuring Section Three, changing some zone policies to district wide policies, and tidying up the provision headings. Overall it is considered that the Proposed District Plan has clear logic and flow but it is accepted that some reformatting and further clarification on how to apply the provisions should be undertaken in order to provide a more user friendly document.

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APPENDIX 1 – Recommendations on Submissions

Submitter	Submission	Recommendation
LAYOUT		
<p>18.89 Environment Southland</p>	<p>The submitter considers the numbering of Section 3 to be confusing commenting that the numbering system seems to be a mixture of rule numbering and paragraph numbering. They comment that this results in parts of rules having separate numbers to the primary rule statement, for example Rule 3.9.10 and Rule 3.9.11.</p> <p>They further comment that a similar issue arises from the separation of the Rule statement from the “matters which will be among those taken into account”, especially where there is only one rule that the “matters” apply to (for example Rule 3.9.5 and 3.9.6).</p> <p>DECISION SOUGHT: Consider reformatting the numbering/structuring of the Rule statements and supporting clauses.</p>	<p>Accept The points of the submitter are accepted. It is agreed that the numbering in Section 3 of the Plan is not clear and creates some confusion between the rules, notes, and assessment matters. The examples provided by the submitter are good examples of this.</p> <p>It is recommended that Section 3 of the Plan be reviewed and reformatted so that the rules, notes, and assessment matters are clearly distinguished. It is recommended that this is done by separating the rules and assessment matters and by adding headings. An example of how Section 3 will be reformatted is provided in Appendix 2 of this report.</p>
<p>34.1(A) Silver Fern Farms Ltd</p> <p>(Note: This submission has been split into two because it covers two different issues. Part (B) of the submission will be addressed in a later report.)</p>	<p>The submitter is generally supportive of the Proposed District Plan as it provides a clear direction in an easy to navigate format.</p>	<p>Accept in part</p> <p>Some minor changes to the formatting of Section 3 of the Plan are recommended (see reasons above in submission point 18.89).</p>
<p>53.1 NZ Transport Agency</p>	<p>The submitter supports the outcomes promoted through the Proposed Plan but notes that some linkages between issues, objectives and policies are not clear and some policy directions are not supported elsewhere in the Plan. The submitter considers that</p>	<p>Reject</p> <p>The layout for the Proposed District Plan is based on a cascading logic. The provisions are framed around two key sections: district wide provisions and</p>

Submitter	Submission	Recommendation
	<p>the adoption of a clear cross referencing approach would assist in remedying these shortfalls.</p> <p>DECISION SOUGHT: Adopt a clear cross referencing schedule between the various parts of the Plan.</p>	<p>zone specific provisions. The district wide provisions cover general matters applicable to the whole district and the zone specific provisions provide opportunities for activities which are in keeping with the character and amenity sought for each area.</p> <p>In determining what rules apply to an activity the zone rules specific to the site and all of the district wide rules must be considered. In addition to this, consideration must also be given to all of the district wide objectives policies and the zone specific objectives and policies.</p> <p>It is acknowledged that in some instances cross referencing can be helpful but it can also lead to an increased risk of mistakes and can make the document feel overly legalistic. The way in which the Plan is drafted means that the objectives and policies apply to multiple rules and therefore full consideration needs to be given to all of the district wide objectives and policies as well as the zone objectives and policies specific to the site.</p> <p>Cross referencing is included in the Operative District Plan in the form of a table in Section One. This was removed from the Proposed District Plan because it is thought that it was not being used and was also found to contain inaccuracies. This is an option that could be considered for the Proposed District Plan but in doing so careful consideration will need to be given to each of the provisions to ensure that they are accurately cross referenced. In some instances, such as the subdivision rule, this could result in the majority of the district wide provisions being referred to.</p> <p>It is noted that some cross referencing has been included in the Rule Section of the Proposed District Plan (Rules 3.4 Demolition, 3.9 Infrastructure, 3.14 Public Open Space and 3.17 Soils Minerals and Earthworks). This occurs when there is another rule which takes priority.</p> <p>In my opinion the Proposed District Plan has clear logic and flow and therefore I do not consider it necessary to include cross referencing. I consider that a better approach would be to include a new paragraph in</p>

Submitter	Submission	Recommendation
		<p>Section 2.1 (Introduction Issues Objectives and Policies) and Section Three (Rules) outlining how the provision should be read and applied to an activity. This will guide the users of the Plan and will help to ensure that all relevant provisions are considered.</p> <p>Recommendation</p> <p>Add the following paragraph to Section 2.1 as follows:</p> <p><u>“Issues, objectives and policies may relate to the district as a whole, or to specific parts within the district. The Plan reflects this by dealing with some issues on a district-wide basis, and others on an area-specific basis. The Plan divides the district into zones which share amenity values. In carrying out an activity regard must be given to all of the district wide objectives and policies as well the zone objectives and policies specific to the site on which the activity is occurring.”</u></p> <p>Add the following paragraph as an introduction to Section 3 as follows</p> <p><u>“The rules of the District Plan have been developed as a method of implementation where it is considered a regulatory approach is necessary to avoid, remedy, or mitigate adverse effects. The rules have been divided into two sections, the District Wide Rules and the Zone Rules. The District Wide Rules apply throughout the District and should be considered for all activities. The Zone Rules recognise that there are different environments and amenity values that make up the district and only apply to the Zone in which the activity is located. Within the Rule Section notes are also provided where further clarification is considered necessary or there is a particular issue that must be considered.</u></p> <p><u>An activity must be assessed against all of the District Wide Rules and the Zone Rules which apply to the site. In addition to the rules, regard must also be given to all of the District Wide Objectives and Policies and the Zone Objectives and Policies specific to the site where the activity is occurring. The Objectives and Policies are set out in Section Two of the District Plan.”</u></p>

Submitter	Submission	Recommendation
53.2 NZ Transport Agency	<p>The submitter considers that some policies that are repeated throughout the zone specific sections of the Plan are clearly of concern on a district-wide basis but are not included as a specific section to enable a more focused approach in the zone provisions.</p> <p>DECISION SOUGHT: Consider restructuring the Plan to reduce repetition of policies relating to glare, electrical interference, lightspill, wind, dilapidated structures and ill-maintained lands, and demolition or removal activities.</p>	<p>It is considered that the policies relating to glare, electrical interference, lightspill, wind, dilapidated structure and ill maintained lands, and demolition or removal activities are best addressed in the Zone Specific Section of the Proposed District Plan.</p> <p>The Proposed District Plan recognises that amenity values vary from place to place and that each zone has different functions and needs. For example the policies on glare within the Industrial Zones are much more permissive than the policies for the Residential Zones. This is because a higher level of amenity is expected in the Residential Zones than in the working environment of the Industrial Zones.</p>
65.44 65.103 65.104 ICC Environmental and Planning Services	<p>The submitter notes that there is some inconsistency between headings and wording of the policies for the different zones. They comment that in many cases these differences are not necessary and could be tidied up, e.g. demolition v demolition and removal. The submitter raises the same issue with the sub-headings of the rules.</p> <p>DECISION SOUGHT: Tidy up headings to ensure consistency between Zones where this is possible.</p>	<p>Accept</p> <p>The submission is accepted. It is recommended that the headings of the policies and rules be reviewed and, where required, changed so that they are consistent between the Zones. Where possible, it is recommended that this be done under clause 16(2) of the First Schedule of the RMA as part of the reports to the Hearing Committee for each topic. A review should also take place at the final formatting stages and any inconsistent headings that have not been amended through previous reports will need to be tidied up at this time.</p>
65.89 ICC Environmental and Planning Services	<p>The submitter notes that the sections within Section 3 Rules should be in alphabetical order.</p> <p>DECISION SOUGHT Ensure that the sections are in alphabetical order – e.g. Lightspill should be before Natural Features.</p>	<p>Accept</p> <p>Amend Section 3 so that Lightspill becomes Rule 3.10 and Natural Features, Landscapes and Townscapes becomes Rule 3.11. <i>(Note: the Rule numbers may change as a response to submission point 18.89.)</i></p>

Submitter	Submission	Recommendation
<p>88.2 Federated Farmers</p>	<p>The submitter holds concerns with the usability of the plan in its current format and considers a considerably more user-friendly layout would be to have the rules for each chapter accompanying the issues, objectives, policies and methods for that topic, ensuring plan users can easily ascertain what their responsibilities in a certain area are, and leading to greater plan compliance.</p> <p>DECISION SOUGHT Not stated.</p>	<p>Reject</p> <p>The objectives and policies of the Proposed District Plan can relate to the district as a whole, or to specific parts within the district. The layout suggested by the submitter would result in the repetition of the district wide issues, objectives and policies throughout the Plan, as they often apply to multiple rules. This would result in a much larger document and would move away from the streamlined approach that the Council are trying to achieve. For example the infrastructure objectives and policies apply to the rules on Biodiversity, Energy, Subdivision, Infrastructure, Natural Hazards and Natural Features and Landscapes. This approach could also result in provisions being missed which could lead to dispute.</p> <p>As set out above in Submission Point 53.1, it is recommended that a new paragraph setting out how the provisions should be read and applied to an activity be added to Section 2. 1 and Section 3. This is considered sufficient to ensure that all relevant provisions are considered as part of a proposal.</p>
<p>117.1 Southern District Health Board</p>	<p>Commend the Council for presenting a well set out and easy to follow document. However, believe it would be useful to have a statement explaining the rationale as to why the format has changed.</p> <p>DECISION SOUGHT Provide a statement explaining the rationale as to why the format of the District Plan has changed.</p>	<p>In developing the Proposed District Plan the Council's Plan Group has endeavoured to achieve a more focused and streamlined document than provided by the Operative District Plan.</p> <p>The sections of the Operative District Plan that are not required by the RMA have been removed from the second generation document. This includes Section Five Anticipated Environmental Results, Section Six Cross Boundary Issues, and Section Seven Monitoring and Review.</p> <p>This provides for a more focused and user friendly document.</p>

Submitter	Submission	Recommendation
<p>117.4 Southern District Health Board</p>	<p>The submitter believes that the National Environmental Standard for Assessing and Managing Contaminants in Soil to protect Human Health 2011 should be cross referenced to Soil, Minerals and Earthworks.</p> <p>DECISION SOUGHT Cross reference the NES for Assessing and Managing Contaminants in Soil to protect Human Health 2011 to Soil, Minerals and Earthworks.</p>	<p>Reject</p> <p>Cross referencing in the Rule Section of the Plan only occurs when there are two or more rules addressing the same issue. For example the Soils, Minerals and Earthworks Rule provides for certain earthwork activities and quantities as permitted activities, but under the Biodiversity Rule earthworks within any areas of significant indigenous biodiversity or within 10m of it is a non-complying activity. The Biodiversity Rule takes priority over the Soils Minerals and Earthworks Rule and is therefore cross referenced.</p> <p>The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) is raised in the Rule Section of the Plan as an overarching note. All activities including the removal or replacing of a fuel tank, soil sampling, soil disturbance, subdivision or change in landuse are required to comply with the NES. The NES takes priority over all other rules.</p> <p>In drafting the Plan it was considered that an overarching note was the best way to ensure that the NES is addressed rather than cross referencing multiple rules. All of the District Wide Rules should be read in conjunction with one another and therefore it is not considered necessary to cross reference the NES.</p>

APPENDIX 2 - RECOMMENDED CHANGES TO THE PROPOSED DISTRICT PLAN

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

SECTION ONE- INTRODUCTION

No change

SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

2.1 Introduction

Section 2 identifies the significant resource management issues to be addressed in this Plan. Each issue is developed by stating the objective that the Council seeks to achieve (i.e. a general statement of intent), and the policies that the Council has adopted as a means of achieving the objectives. An outline of the methods to be used to complement the policies is also included in this section.

For the purposes of this Plan a resource management issue is identified as significant when:

- (A) It is within the ambit of the Resource Management Act 1991; and
- (B) It is stated as or derives from an issue within the Regional Policy Statement; or
- (C) It has been expressed by the community as being of importance; and
- (D) It would be possible for the Council to modify the outcome through intervention.

An issue in this context is seen as a problem, for which there is one or more possible solutions or outcomes. What the Council intends to do about each issue is set out in the Objectives and Policies, which express what the Council hopes to achieve and how it intends to achieve it. Some (but by no means all) of the Policies are supported by Rules in this Plan. In other instances the Council has concluded that a non-regulatory method at this stage (such as making information available) is likely to be more effective in achieving the desired outcome.

Issues, objectives and policies may relate to the district as a whole, or to specific parts within the district. The Plan reflects this by dealing with some issues on a district-wide basis, and others on an area-specific basis. The Plan divides the district into zones which share amenity values. In carrying out an activity regard must be given to all of the district wide objectives and policies as well the zone objectives and policies specific to the site on which the activity is occurring.

The significant resource management issues, policies and objectives fall under the following headings:

SECTION THREE – RULES

RULES

The rules of the District Plan have been developed as a method of implementation where it is considered a regulatory approach is necessary to avoid, remedy, or mitigate adverse effects. The rules have been divided into two sections, the District Wide Rules and the Zone Rules. The District Wide Rules apply throughout the District and should be considered for all activities. The Zone Rules recognise that there are different environments and amenity values that make up the district and only apply to the Zone in which the activity is located. Within the Rule Section notes are also provided where further clarification is considered necessary or there is a particular issue that must be considered.

An activity must be assessed against all of the District Wide Rules and the Zone Rules which apply to the site. In addition to the rules, regard must also be given to all of the District Wide Objectives and Policies and the Zone Objectives and Policies specific to the site where the activity is occurring. The Objectives and Policies are set out in Section Two of the District Plan.”

~~3.10 — Natural Features, Landscapes and Townscapes~~

~~3.11 — Lightspill~~

3.10 Lightspill

3.11 Natural Features, Landscapes and Townscapes

SECTION FOUR – DEFINITIONS

No change

SECTION FIVE – APPENDICES

No change

Examples of reformatted district-wide sections of the Proposed District Plan

3.1 BIODIVERSITY

This rule applies to areas of significant indigenous biodiversity identified in the Planning Maps.

3.1.1 RULES

Rule 1 It is a permitted activity to:

- (A) Undertake maintenance and/or restoration planting.
- (B) Remove diseased, dead or damaged trees or vegetation, where this is necessary to avoid adverse effects on remaining trees or vegetation or to avoid risk to buildings.
- (C) Remove pest plants as identified in the Regional Pest Management Strategy for Southland.
- (D) Trim or remove vegetation that encroaches into the Airport Approach and Land Use Controls as identified in the District Planning Maps.
- (E) Trim vegetation:
 - (a) Within formed legal roadways, where such trimming is required to maintain road safety.
 - (b) On formed vehicle access ways, where such trimming is required to enable use by vehicles (including emergency vehicles where necessary).
 - (c) Immediately adjacent to structures and lines, where such trimming is required to avoid damage to such structures and lines.
 - (d) Immediately adjacent to open drains, where such trimming is required in order to undertake maintenance of the drain.

Provided that trimming shall relate to the removal of parts of trees for reasons as set out above, while retaining the biological viability of the vegetation association.

Rule 2 It is a discretionary activity to:

- (A) Construct any access way or road.
- (B) Construct utility services in a manner that will require the trimming, removal or changes to any indigenous vegetation or parts thereof, including any branches or roots, within the drip line of that vegetation.

Rule 3 It is a non-complying activity to:

- (A) Remove any live indigenous vegetation, or alter such vegetation in a manner that destroys the biological viability of that vegetation, except where permitted under Rule 3.1.1 above.
- (B) Erect any building or other structure with a footprint greater than 10 square metres in area.
- (C) Plant exotic woodlots and commercial forestry.
- (D) Carry out earthworks within any area of significant indigenous biodiversity or within 10 metres of it.

3.1.2 ASSESSMENT MATTERS

Applications under 3.1.1 Rules 2 and 3 above shall address the following matters, which will be among those taken into account by Council:

- (A) Whether the affected indigenous biodiversity is one of the four priorities specified in the Statement of National Priorities for Protecting Rare and Threatened Indigenous Biodiversity on Private Land (MfE, 2007).
- (B) Whether the affected indigenous biodiversity is considered as threatened, at risk or rare in any official region wide schedule.
- (C) The quantity of native vegetation to be cleared and the reason for the removal.
- (D) The degree of modification or damage that will occur to the areas of significant indigenous biodiversity.
- (E) The effect on the overall ecological integrity and biological diversity and functioning of the area of significant indigenous biodiversity.
- (F) The proximity of the area affected by the proposal to riparian margins and wetland.
- (G) Methods proposed to avoid, remedy or mitigate adverse effects including:
 - (a) Soil and water conservation measures.
 - (b) Animal and plant pest control.
 - (c) Stock control measures.
- (H) The treatment of the area surrounding any clearances created so that vegetation within the adjoining area of significant indigenous biodiversity is not adversely affected.
- (I) Any proposals to compensate for or offset loss of indigenous biodiversity including setting aside equivalent areas (equal to or greater

in terms of the extent of vegetation lost) of indigenous biodiversity elsewhere for protection.

- (J) Any landscape or amenity related values of the land (including contribution to natural character).
- (K) The role the affected land plays in ecosystem services (including natural hazard mitigation).
- (L) The value of the affected land to tangata whenua.
- (M) The social, cultural, and/or recreation effects of the proposal.
- (N) Where the subject property has been involved in any previous assessment processes, the outcome of such assessments.
- (O) Whether the affected indigenous biodiversity has ecological value due to its location and functioning in relation to its surroundings. For example, an area may be ecologically significant because of its connections to a neighbouring area, or as part of a network of areas of fauna habitat, or as a buffer.

3.1.3 NOTE

Where an application for resource consent is required under 3.1.1 Rules 2 and 3 above the application shall include an ecological assessment commensurate with the scale of the proposed activity detailing the impact of the activity on the significant indigenous biodiversity, including the current health of the biodiversity in the area in question and any maintenance regime proposed.

Example of a reformatted zone-specific section of the Proposed District Plan

3.23 BUSINESS 1 (CENTRAL BUSINESS DISTRICT) ZONE

3.23.1 RULES

Rule 1 Permitted Activities: The following are permitted activities within the Business 1 Zone:

- (A) Car parking activity
- (B) Child day care activity
- (C) Commercial recreation activity
- (D) Communal activity
- (E) Community service activity
- (F) Educational activity
- (G) Essential services activity
- (H) Healthcare activity
- (I) Hospital activity
- (J) Motor vehicle sales, except within the Priority Redevelopment Precinct, the Entertainment Precinct and the Pedestrian-Friendly Frontages Precinct
- (K) Professional and personal services
- (L) Residential activity, except within the Entertainment Precinct.
- (M) Restaurants, cafes, bars and taverns
- (N) Retail sales
- (O) Shopping mall activity
- (P) Service stations, except within the Priority Redevelopment Precinct, the Entertainment Precinct and the Pedestrian-Friendly Frontages Precinct
- (Q) Supermarkets except within the Priority Redevelopment Precinct
- (R) Temporary activities
- (S) Visitor accommodation

Rule 2 Discretionary activities: The following are discretionary activities in the Business 1 Zone:

- (A) Any activity not listed as permitted (other than heavy industry) up to 5,000 square metres total floor space.

Rule 3 Non-complying activities: The following are non-complying activities in the Business 1 Zone:

- (A) Heavy industry and any activity not listed as permitted with a total floor space exceeding 5,000 square metres.

Rule 4 Pedestrian friendly frontages:

- (A) The ground floor façade of all buildings within the Pedestrian Friendly Frontages Precinct is required to have at least:
 - (a) 40% devoted to display windows.
 - (b) One public entrance with glazing comprising at least 40% of the doors.
- (B) Any new building within the Pedestrian Friendly Frontages Precinct is required to:
 - (a) Be set back from the street boundary by no more than three metres.
 - (b) Occupy at least 70% of the street frontage.
 - (c) Make provision for any car parking or vehicle servicing to the side or rear of the building.
- (C) Where any of the provisions of 3.23.1 Rules 4(A) and 4(B) are not met, the activity is a discretionary activity.

Rule 5 Weather protection

- (A) Within the Pedestrian Friendly Frontages Precinct all buildings are to be provided with verandahs across the public footpath for the full width of the site frontages.
- (B) Any verandah across a public footpath is to be designed and constructed to comply with the following:
 - (a) Have a maximum height of 3.5 metres and a minimum height of three metres above the footpath.
 - (b) Be set back 0.6 metres from the kerb line.
 - (c) Be so related to verandahs on adjacent buildings as to provide continuous weather protection for pedestrians.

- (C) Where a verandah does not meet one or more of these standards, or where weather protection is provided by other means, the activity is a restricted discretionary activity.

The matter over which the Council shall exercise its discretion is:

- (a) The degree to which pedestrians using the public footpath are provided with adequate protection from the weather.

Rule 6 Height of Structures

- (A) Except within the Pedestrian Friendly Frontages Precinct and the Priority Redevelopment Precinct, all new buildings and structures, and additions to existing buildings and structures, are to be designed and constructed to comply with the following maximum height and recession planes:
 - (a) Maximum height: 10 metres.
 - (b) Recession plane: Infogram 4 applies in relation to any boundary with any Residential Zone.
- (B) Where an activity does not comply with 3.23.1 Rule 6(A) above, the activity is a discretionary activity.

Rule 7 Street frontage and building height - Pedestrian Friendly Frontages Precinct

- (A) Except as provided for in 3.21.1 Rule 8, all new buildings within the Pedestrian Friendly Frontages Precinct are required to be two storeys high along the street frontage.
- (B) The actual height of the two storeys is to be sufficient to match the first two storeys of the buildings on either side where the buildings are directly adjoining each other.
- (C) Where the proposed building is to be single storey only, the additional height along the frontage is to be provided by a parapet.
- (D) Any new building which does not comply with 3.23.1 Rules 7(A) to Rule 7(C) is a discretionary activity.

Rule 8 Corner sites and building height – Priority Redevelopment Precinct

- (A) New buildings within the Priority Redevelopment Precinct which are on the corner of two formed roads are to be three storeys over at least 50% of the footprint of the building and the higher part of the building shall face the public streets.
- (B) Any new building which does not comply with 3.23.1 Rule 8(A) is a discretionary activity.

RULE 9 Side and rear yards

- (A) A side and/or rear yard of at least four metres shall be provided for non residential activities where the site adjoins a residential zone.
- (B) Where an activity does not comply with 3.23.1 Rule 9(A) above then the activity is a discretionary activity.

RULE 10 Outdoor Storage

- (A) Any area utilised for outdoor storage adjoining a residential zone is to be screened from that residential area by a close boarded fence, solid wall or hedge not less than 1.8 metres in height.
- (B) Where an activity does not comply with 3.23.1 Rule 10(A) above the activity is a discretionary activity.

RULE 11 Crime Prevention through Environmental Design

- (A) Alleyways for public access are to be constructed and maintained so as to:
 - (a) Not include hidden corners or blind spots.
 - (b) Be provided with sufficient lighting to illuminate the pedestrian access route while the route is open to the public.
 - (c) Have a legal width of not less than 3.5 metres.
- (B) Where the requirements in 3.23.1 Rule 11(1) above are not met the building or development is a restricted discretionary activity.

The matter over which the Council shall exercise its discretion is:

- (a) Features incorporated into the design of the building or development to give effect to the principles of Crime Prevention Through Environmental Design.

3.23.2 ASSESSMENT MATTERS

Applications made under Rules 3.23.1 above shall address the following matters which will be among those taken into account by the Council:

- (A) Applications under Rule 2:
 - (a) Features incorporated into the building to display the business of the building or enable people on the public footpath to be aware of what is going on inside.
 - (b) Upper storey features such as fenestration and balconies.
 - (c) Features intended to enhance the experience of pedestrians passing the building, such as landscape or sculptural features.

- (d) Texture and detailing of the façade to make it attractive for pedestrians.
 - (e) Positioning and character of entrances and exits.
- (B) Applications under Rule 6:
- (a) The reasons for the building or structure height.
 - (b) The compatibility of the proposed building or structure with the scale of development and character of the local area.
 - (c) The degree of overshadowing of neighbouring properties.
 - (d) The degree of overlooking of neighbouring properties.
 - (e) The ability to mitigate any adverse effects of the increase in building or structure height.
- (C) Applications under Rule 7 and Rule 8:
- (a) The degree to which design of the proposed building will integrate with or complement the buildings in the immediate vicinity.
 - (b) The extent to which the building contributes to the character and identity of the Priority Redevelopment Precinct.
- (D) Applications under Rule 9:
- (a) Adverse effects on the neighbouring residentially zoned property.
- (E) Applications under Rule 10:
- (a) The effects of the storage on the amenities of the adjoining neighbourhood.