



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 3

Lightspill

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

**Reporting Officer: Joanna Shirley
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**Peer Reviewed by: John Edmonds and Dan Wells
JOHN EDMONDS AND ASSOCIATES LIMITED**

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1. EXECUTIVE SUMMARY

The Proposed District Plan seeks to control the adverse effects of lighting by managing the level of lightspill generated at the boundary of a site. The maximum level of lightspill is determined by the different zones and the amenity anticipated for that area. An activity that cannot meet that specified standards is a restricted discretionary activity.

Thirteen submission points were received on the lightspill provisions of the Proposed District Plan with two further submissions. The submissions were in general support of the policies and rules, but some minor amendments were sought.

Minor changes to the lightspill policies in the Otatara, Residential 1, Rural 1, Rural 2 and Smelter Zones are recommended. The changes achieve the purpose of the objectives of the Proposed District Plan and are an improvement on the original policies.

A submission requesting a minor amendment to Rule 3.11.4(A) was received. The changes sought included the addition of the consideration of effects on the railway corridor as a matter of discretion. It is considered that the amendment to Rule 3.11.4(A) will provide better transparency over the matters of discretion, which will help to assist the users of the Plan. It is recommended that the change be accepted.

The Issues and Objectives relating to Lightspill should remain as notified. They meet the requirements under the Resource Management Act 1991 and have not been the subject of any submission.

In this report:

- Part 2 considers several key procedural issues
- Part 3 provides background information on the Lightspill 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 the submitters
- Part 6 provides a discussion on the Section 32 matters
- 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 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 lightspill topic, and the provisions of the Proposed Invercargill City District Plan 2013.
- 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 relating to Lightspill.

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 Lightspill provisions; 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

“FS” means further submitter in Appendix 2

“Hearing Committee” means the District Plan Hearing 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 Hearing Committee to make decisions on the provisions relating to those issues. This report applies to the Lightspill 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 relates to the provisions in the Proposed District Plan addressing lightspill. This includes:

- Section 2.2, which contains the issues relating to Amenity Values of the District;
- Sections 2.19 to 2.43, containing the issues, objectives, policies and methods of implementation for each of the Zones;
- Section 3.11, which contains the District Wide rules for lightspill; and
- Section 4, containing the definitions.

The changes notified as part of the Proposed District Plan from what was included in the Operative District Plan included a strengthening of the policies and being more explicit in terms of the matters over which the Council can exercise its discretion.

3.1 Proposed Issues, Objectives and Policies

There are no specific issues and objectives in the District Wide Section of the Proposed District Plan relating to lightspill. However there is a discussion in the issues at a District wide section and the general objectives relating to Amenity Values are relevant to lightspill.

In the Zone specific section of the Issues, Objectives and Policies each Zone has policies relating to lightspill. The policies are focused on providing an appropriate level of lighting for each of the Zones, whilst managing the effects of lightspill on neighbouring properties, skyline and the transportation network. It is acknowledged that lighting is necessary for security purposes and as a means to promote business, but it is recognised that lightspill can cause a nuisance and detract from the amenity of an area. It is therefore necessary to establish limits around the amount of lightspill that can occur, in order to avoid nuisance and protect amenity values.

3.2 Proposed Rule

As in the Operative District Plan, the Proposed District Plan includes a District Wide Rule on Lightspill (Section 3.11). The rule limits the level of lightspill at the boundary of a site by specifying a maximum lightspill level for each of the different zones. Activities are to be designed, constructed and operated within the specified maximum level and are to be measured and assessed in accordance with the Australian Standard AS 4282 1997: Control of the Obtrusive Effects of Outdoor Lighting.

Where an activity cannot meet the specified standards the activity is deemed to be a restricted discretionary activity. This has not changed from the Operative District Plan, but the matters over which the Council exercise its discretion are more detailed in the Proposed District Plan.

Points (A) and (B) in Rule 3.11.4 of the Proposed Plan, set out below, have been added and replace Point (A) in Rule 4.36.4 of the Operative Plan:

“3.11.4 The matters over which the Council shall exercise its discretion are:

- (A) The effect of the lightspill on the transportation network and on the amenities of properties nearby

(B) The effect of lightspill on the skyline.”

These matters have been included to enable the Council to fully consider the effects of lightspill on the transportation network, the amenities on nearby properties and the skyline.

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.

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 provisions for managing lightspill 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 are especially relevant to the issue of lightspill, but it is noted that the following may be relevant 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;*

It is considered that the provisions as notified appropriately manage these issues by ensuring that the effects of lightspill are contained within a site or in some instances within a Zone.

Section 7 of the RMA sets out “other matters” for which particular regard shall be had. It is considered that the most relevant matters are:

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

It is considered that the provisions relating to lightspill in the Proposed District Plan demonstrate particular 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. This subject was not identified as an issue of particular significance.

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)(a) is:

“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.”

Under Section 31(1)(b) of the RMA a territorial authority is required to “... control ... any actual or potential effects of the use, development, or protection of land ...”

The lightspill provisions in the Proposed District Plan include policies, and methods intended to manage the actual or potential effects of land use activities that generate lightspill on the environment.

One submission drew attention to the use of the term “minimise” in the Proposed District Plan with respect to the policies that address lightspill. The concern was that this may imply a level of intervention beyond what territorial authorities normally engage in when managing effects from private property. As discussed later in the report, an alternative term is now proposed.

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 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. 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

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand coastal policy statement. There are no matters of direct relevance to Lightspill. However the issue of Lightspill could be considered as part of a resource consent application within the coastal environment.

4.2.2 National Policy Statements and National Environmental Standards

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements.

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

There are no National Policy Statements or National Environmental Standards that directly relate to Lightspill.

4.2.3 Regional Policy Statement

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

The policies and objectives from the Southland Regional Policy Statement (1997) specifically relevant to the Lightspill provisions are set out below:

Objective 10.2 - To maintain and enhance the environmental quality of the Region's built environment.

Objective 10.5 - To minimise the adverse effects of the built environment on natural and physical resources.

The lightspill provisions give effect to these policies and objectives by setting limits around the amount of lightspill that can occur at the boundary of a site or zone.

4.2.4 Proposed Regional Policy Statement

In accordance with Section 74, regard needs to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012. The following policy is relevant to the issue of lightspill.

Policy URB.1 – The adverse effects of urban development on the environment should be appropriately avoided, remedied or mitigated.

This policy is similar to the Operative RPS and those proposed in the District Plan, and appropriate regard has been given to it.

4.2.5 Regional Plans

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. The only relevant regional plan is considered to be the Regional Coastal Plan.

The lighting provisions of the Proposed District Plan are consistent with the Regional Coastal Plan, particularly Policies 5.3.2 Amenity Values and Policy 5.3.4 Lighting.

4.2.6 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

Ngai Tahu have lodged an Iwi Management Plan with the Council. The relevant document is the *Ngai Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Tauira*. The Cry of the People identifies the visual intrusion of lightspill as an issue. The relevant policies are as follows:

Discharges to Air Policy 15 – Encourages techniques to eliminate the effects of light pollution. Techniques should be introduced during planning phases for new suburban and coastal subdivision and when assessing harbour and port activities.

Amenity Values Policy 1 – Limit through promotion of improved production and techniques, visual and physical effects from activities associated with exhaust emissions, dust, unacceptable and intense odour smoke and lighting.

It is my opinion that the concerns raised in the Iwi Management Plan have been given regard to. The Lightspill provisions seek to avoid adverse environmental effects on the environment, including the skyline. The issue of lightspill can also be considered as part of a subdivision application.

4.2.7 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. For the District Plan review, the Invercargill City Centre Action Plan and the Big Picture (both prepared under the Local Government Act) are considered relevant. However, there are not considered to be any relevant matters arising from these documents with respect to lightspill.

4.3 Summary

It is considered that the purpose and principles of the RMA are met by the Lightspill provisions set out in the Proposed District Plan. The proposed provisions fall within the functions of local authorities (minor changes are proposed to make this clearer). The requirements of Section 32 of the RMA have been met through the evaluations carried out prior to notification and in this report. The various documents required to be considered have been appropriately addressed in the preparation of provisions relating to lightspill.

5. ANALYSIS OF SUBMISSIONS

Thirteen submission points were received on the lightspill provisions of the Proposed District Plan, with two further submissions. These submissions are summarised in table format, along with recommended responses, in **Appendix 1** of this report.

Eight of the submission points related to the policies for lightspill, set out in the Zone Specific Issues, Objectives and Policies Section of the Proposed District Plan. The submissions were in general support of the policies, but some minor amendments were sought.

Five submission points in support of the Lightspill Rule (s3.11) were received; however an amendment to Rule 3.11.4 (A) was sought by one submitter. The submitter requested that the rule be amended to include specific reference to the railway corridor as a matter over which the Council exercises its discretion.

The key issues raised in the submissions are:

1. Whether the zone specific lightspill policies are more appropriate as District wide policies.
2. Wording of policies.
3. Clarification of the term “transportation network” in Rule 3.11.4 (A).

The issues are discussed below.

5.1 Whether the zone specific lightspill policies are more appropriate as District Wide Policies.

Invercargill Airport Limited supports the lightspill policies in the Airport Operations and Airport Protection Zones, but questions whether the issue of lightspill would be more appropriate as a District Wide Policy. They believe that lightspill is an issue that arises throughout the District and that the policy should therefore apply to the entire region, rather than being specific to the Airport Operations and Airport Protection Zones. They have requested that a new policy, having similar effect as a district wide policy, be added to the Infrastructure or Transportation Issues, Objectives, and Policies Section of the Plan.

I agree with the submitter that the issue of lightspill arises throughout the district. However, the accepted level of lightspill varies depending on the location of the activity and amenities anticipated for that area. The Proposed District Plan recognises that amenity values vary from place to place and that certain activities and areas of the district have different functions and requirements. This is reflected in the Plan by providing zone specific objectives and policies.

I consider that the issue of lightspill is best addressed in the zone specific policies of the Proposed District Plan. This provides for the individual lighting needs and amenity values of each zone. However it is noted that zones with similar lighting requirements and amenity values should have corresponding policies.

5.2 Wording of Policies

Otatara Policy 8, Residential 1 Policy 13, Rural 1 Policy 12, Rural 2 Policy 11

A submission on the lightspill policies in the Otatara, Residential 1, Rural 1 and Rural 2 Zones, was received. The submission states that the Council should not be taking responsibility for minimising lightspill. It is suggested by the submitter that the policy be amended to replace the word “minimise” with “prevent nuisance from”.

I agree with the submitter that the word minimise may imply a level of intervention beyond what territorial authorities normally engage in when managing effects from private properties. However, preventing nuisance in urban areas from lightspill may not be entirely possible. More appropriate wording would be to “avoid, remedy or mitigate the adverse effects of lightspill”. This is consistent with Part 2 of the RMA.

Smelter Zone Policy 6

NZAS is partly opposed to the wording of Smelter Zone Policy 6. They have expressed the importance of 24 hour lighting to the operations of the smelter, and would like the policy to be amended to reflect this. They believe that this could be achieved by amending the policy to focus on the management of “inappropriate” lightspill.

The Policy Explanation recognises that floodlighting and security lighting is an essential feature of smelter operations, which must continue to operate 24 hours per day. However it also recognises that it is both possible and necessary to avoid nuisance from lightspill on residential areas across the harbour.

I do not believe it to be appropriate to amend the policy as sought by the submitter. The proposed wording is too vague, leaving the policy open to debate over what is considered to be “inappropriate” lightspill. However, I agree with the submitter that the policy does not recognise the essential element of lighting to the operation of the smelter. I am therefore recommending that the policy be amended to reflect this. The proposed change is set out in **Appendix 2**.

5.3 Clarification of the term “transportation network” in Rule 3.11.4(A)

Rule 3.11.2 of the Proposed District Plan sets out a maximum level of light permitted at the boundary of a site in each of the different Zones. If an activity cannot comply with the level of light specified then resource consent is required as a restricted discretionary activity. The matters over which the Council exercises its discretion are set out in Rule 3.11.4 (A) and (B) and include the effect of lightspill on the transportation network, nearby properties and the skyline.

KiwiRail Holdings Limited has requested that Rule 3.11.4(A) be amended to include specific reference to the railway corridor, as a matter over which the Council exercises its discretion. They are concerned that the existing term “transportation network” does not sufficiently address the effects of lightspill on the users of the railway corridor.

Managing the effects of lightspill on the transportation network, including the railway corridor, is important to ensure safety of the transport users and the maintenance of amenity values. I consider that it would be appropriate to amend Rule 3.11.4(A) to include specific reference to the railway corridor. This will make the process more

transparent and will help to assist the users of the District Plan when applying for resource consent.

5.4 Minor Amendments

I also recommend a minor change to the heading of Smelter Zone Policy 6 to ensure consistency throughout the Plan. It is considered that this is a minor amendment that will result in no consequence to the intention and outcome of the provisions. It is considered that the changes are a correction of a minor error and that the effects of the amendments are so minor that the amendments can be made at this stage under clause 16 (2) of the First Schedule to the RMA.

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.

An Evaluation Report was released at the time of notification of the Proposed Plan.

Section 32AA of the RMA requires a further evaluation to be released with decisions outlining the costs and benefits of any amendments made after the Proposed 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

Listed below are the matters considered relevant for further evaluation under Section 32AA of the RMA.

- Amendment to the lightspill policies in the Otatara, Residential 1, Rural 1, Rural 2, and Airport Protection Zones. The amendment recommended will replace the word “minimise” with “avoid remedy or mitigate the adverse effects of”.
- Amendment to Smelter Zone Policy 6 in order to reflect the essential nature of lighting to the operation of the smelter.
- Amendment to Rule 3.11.4(A) in order to include specific reference to the railway corridor.

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

6.2 Section 32AA Further Evaluation

Lightspill is covered in the Amenity section of the original Section 32 report and in the Zone Specific Issues section. The recommended amendments are only minor changes and do not raise any significant matters outside of the original evaluation report.

The changes are intended to aid the interpretation of policies and rules. The environmental, economic, social or cultural effects (including effects on employment and economic growth) anticipated to arise as a consequence of the changes will be minor. However, it is noted that both the Smelter Zone and the railway corridor have important economic and employment generation roles for the City. The changes should assist in ensuring that the policy framework appropriately enables the operation of these assets and infrastructure.

The submissions do not relate to the objectives on amenity and therefore no amendments to the objectives are sought. The amendments to the policies and rule, as set out in **Appendix 2**, are considered to be the most appropriate way to achieve the objectives of the Proposed District Plan relating to the District Wide and Zone Specific Amenity Values.

7. CONCLUDING COMMENTS

The Issues and Objectives relating to Lightspill should remain as notified. They meet the requirements under the Resource Management Act 1991 and have not been the subject of any submissions.

Thirteen submission points were received on the lightspill policies and rules of the Proposed District Plan, with two further submissions. The submissions were in general support of the lightspill provisions, but some minor amendments were sought.

After analysing all of the submission points it is my view that the policies on lightspill for the Otatara, Residential 1, Rural 1, Rural 2 and Smelter Zones should be amended. The changes include minor amendments to the wording of the policies. It is also recommended that the Lightspill Rule be amended to include reference to the railway corridor as a matter of discretion. I consider that this change will result in an improved transparency of process and will help to assist the users of the Plan.

It is my opinion that the Lightspill provisions and suggested changes to the policies and rules achieve the purpose of the Objectives of the Proposed District Plan relating to Amenity Values and meet the requirements of the RMA.

APPENDIX 1: RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

Submitter	Submission	Recommendation
AIRPORT OPERATIONS ZONE		
2.19.3 Policy 9 Lightspill		
103.33 Invercargill Airport Ltd	<p>Support. The submitter supports this policy, however believes it may be better as a District Wide policy rather being specific to the Airport Operation Zone.</p> <p>DECISION SOUGHT Insert policy having similar effect as a District Wide policy in either the Transportation section (2.17) or Infrastructure section (2.9) of the District Wide part of the Plan</p>	<p>Reject</p> <p>It is considered that the issue of lightspill is best addressed in the zone specific section of the Proposed District Plan. By doing so, the individual lighting needs and amenity values of each zone will be met.</p>
AIRPORT PROTECTION ZONE		
2.20.3 Policy 9 Lightspill		
103.48 Invercargill Airport Ltd	<p>Support. The submitter supports this policy, but believes it may be better as a District Wide policy rather being specific to the Airport Protection Zone.</p> <p>DECISION SOUGHT Insert policy having similar effect as a District Wide policy in either the Transportation section (2.17) or Infrastructure section (2.9) of the District Wide part of the Plan</p>	<p>Reject in part</p> <p>It is considered that the issue of lightspill is best addressed in the zone specific section of the Proposed District Plan. By doing so, the individual lighting needs and amenity values of each zone will be met. However, there should be consistency between zones with similar amenity values and lighting needs. It is therefore recommended that Policy 9 be amended to reflect the proposed change to the lightspill policies in the Otatara, Residential 1, Rural 1 and Rural 2 Zones.</p> <p>Amend Policy 9 to read as follows:</p> <p><i>To minimise avoid remedy or mitigate the adverse effects of lightspill.</i></p>

Submitter	Submission	Recommendation
OTATARA ZONE		
2.34.3 Policy 8 Lightspill		
<p>65.73 ICC Environmental and Planning Services</p>	<p>Support subject to amendment of drafting error as the submitter considers the Council should not be taking responsibility for minimising lightspill.</p> <p>DECISION SOUGHT Amend wording: "To minimise <u>prevent nuisance from lightspill</u>"</p>	<p>Accept in part</p> <p>It is agreed that the word minimise may imply a level of intervention beyond what territorial authorities normally engage in when managing effects from private properties. However, preventing nuisance in urban areas from lightspill may not be entirely possible. More appropriate wording would be to "avoid, remedy or mitigate the adverse effects of lightspill". This is consistent with Part 2 of the RMA.</p> <p>Amend Policy 8 to read as follows:</p> <p><i>To minimise <u>avoid remedy or mitigate the adverse effects of lightspill.</u></i></p> <p>The proposed amendment is an improvement on the current wording and better reflects the role of Council.</p>
RESIDENTIAL 1 ZONE		
2.36.3 Policy 13 Lightspill		
<p>65.78 ICC Environmental and Planning Services</p>	<p>Support subject to amendment of drafting error as the submitter considers the Council should not be taking responsibility for minimising lightspill.</p> <p>DECISION SOUGHT Amend wording: "To minimise <u>prevent nuisance from lightspill</u>"</p>	<p>Accept in part</p> <p>See recommendation and reasons outlined above under submission 65.73</p> <p>Amend Policy 13 to read as follows:</p> <p><i>To minimise <u>avoid remedy or mitigate the adverse effects of lightspill.</u></i></p>

Submitter	Submission	Recommendation
RURAL 1 ZONE		
2.40.3 Policy 12 Lightspill		
65.86 ICC Environmental and Planning Services	Support subject to amendment of drafting error as the submitter considers the Council should not be taking responsibility for minimising lightspill. DECISION SOUGHT Amend wording: "To minimise <u>prevent nuisance from</u> lightspill"	Accept See recommendation and reasons outlined above under submission 65.73 Amend Policy 12 to read as follows: <i>To minimise <u>avoid remedy or mitigate the adverse effects of</u> lightspill.</i>
RURAL 2 ZONE		
2.41.3 Policy 11 Lightspill		
65.88 ICC Environmental and Planning Services	Support subject to amendment of drafting error as the submitter considers the Council should not be taking responsibility for minimising lightspill. DECISION SOUGHT Amend wording: "To minimise <u>prevent nuisance from</u> lightspill"	Accept See recommendation and reasons outlined above under submission 65.73 Amend Policy 11 to read as follows: <i>To minimise <u>avoid remedy or mitigate the adverse effects of</u> lightspill.</i>

Submitter	Submission	Recommendation
SEAPORT ZONE		
2.42.3 Policy 6 Lightspill		
24.53 South Port NZ Ltd	Support. DECISION SOUGHT Retain.	Accept
FS24.9 Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd	Support submission 24.53 The further submitter considers that the policy and explanation appropriately recognise that while floodlighting and security lighting are an essential feature of port and cargo handling facilities, lightspill does need to be managed in relation to practicably minimising nuisance for residential areas.	Accept
SMELTER ZONE		
2.43.3 Policy 6 Lightspill		
71.37 NZAS Ltd	Oppose in part. The submitter seeks a minor amendment, noting that they require lighting 24 hours a day, but understand that it is important to manage the effects of this on residential activities DECISION SOUGHT Amend Policy 6 as follows: "To manage the effects of <u>inappropriate</u> lightspill from the aluminium smelting activities and associated operations on nearby residential areas."	Accept in part It is agreed that the policy should be amended to reflect the essential feature of lighting to the operation of the smelter. However the wording proposed by the submitter is too vague and could leave the policy open to debate over what is considered to be "inappropriate" lightspill. Amend Policy 6 to read as follows: <i>To manage the effects of lightspill provide for lighting from the aluminium smelting activities and associated operations, whilst managing lightspill so as to avoid adverse effects on nearby residential areas.</i>

Submitter	Submission	Recommendation
DISTRICT WIDE RULE – 3.11 LIGHTSPILL		
105.6 ICC Environmental Health and Compliance Services	<p>The submitter supports the inclusion of rules on lightspill. They acknowledge the importance of light in terms of security but also acknowledge that light can cause a nuisance</p> <p>DECISION SOUGHT Support</p>	Accept
24.62 South Port NZ Ltd	<p>Support.</p> <p>DECISION SOUGHT Support</p>	Accept
28.6 Harvey Norman Properties (NZ) Ltd and Harvey Norman Stores (NZ) Pty Ltd	<p>The submitter supports this provision as it allows for an increased lux level to reflect the amenity and activities anticipated in the proposed Business 3 Zone.</p> <p>DECISION SOUGHT Not stated.</p>	Accept
71.53 NZAS Ltd	<p>Support. The submitter supports the inclusion of “no limit” in relation to the generation of lightspill in relation to the Smelter Zone</p> <p>DECISION SOUGHT Retain reference to “no limit” in relation to the Smelter Zone.</p>	Accept

Submitter	Submission	Recommendation
79.27 KiwiRail Holdings Ltd	<p>Support with amendments. The submitter is concerned with the effects of lightspill on the users of the rail corridor</p> <p>DECISION SOUGHT Amend 3.11.4 (A) by clarifying the term “transportation network” by including specific reference to the railway corridor</p>	<p>Accept</p> <p>Amend Rule 3.11.4(A) to read as follows:</p> <p><i>The effect of the lightspill on the transportation network, including the railway corridor, and on the amenities of properties nearby.</i></p> <p>The amendment will make it clear to the users of the District Plan that the effects of lightspill on the transportation network include effects on the railway corridor. This will help clarify the matters which need to be considered as part of an application for resource consent.</p> <p>The amendments are consistent with the objectives and policies relating to the lightspill provisions.</p>
FS34.4 ICC - Environmental Health and Compliance Services	<p>Support submission 28.6, 71.53, 79.27</p> <p>DECISION SOUGHT Not stated.</p>	<p><i>Accept</i></p>

APPENDIX 2 - RECOMMENDED CHANGES TO THE PROPOSED DISTRICT PLAN

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

SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

2.19 Airport Operations Zone

2.19.3 Policies

Policy 9 **Lightspill** (*pg 2 – 70*) – No change

Explanation – No change

2.20 Airport Protections Zone

2.20.3 Policies

Policy 9 **Lightspill** (*pg 2-73*)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.22 Business 1 (Central Business District) Zone

2.22.3 Policies

Policy 9 **Lighting** (*Pg 2-80*) – No change

Explanation – No change

2.23 Business 2 (Suburban Shopping and Business) Zone

2.23.3 Policies

Policy 7 **Lighting** (*pg 2 - 87*) – No change

Explanation – No change

2.24 Business 3 (Specialist Commercial) Zone

2.24.3 Policies

Policy 9 **Lighting** (*pg 2 – 94*) – No change

Explanation – No change

2.25 Business 4 (Neighbourhood Shop) Zone

2.25.3 Policies

Policy 6 Lighting (*pg 2 – 98*) – No change

Explanation – No change

2.26 Business 5 (Rural Service) Zone

2.26.3 Policies

Policy 6 Lightspill (*pg 2 – 102*) – No change

Explanation – No change

2.27 Hospital Zone

2.27.3 Policies

Policy 7 Lighting (*2 – 106*) – No change

Explanation – No change

2.29 Industrial 1 (Light) Zone

2.29.3 Policies

Policy 7 Lighting (*pg 2 – 112*) – No change

Explanation – No change

Policy 8 Lightspill (*pg 2 – 112*) – No change

Explanation – No change

2.31 Industrial 2 (Urban) Zone

2.31.3 Policies

Policy 6 Lighting (*pg 2 – 119*) – No change

Explanation – No change

2.32 Industrial 3 (Large) Zone

2.32.3 Policies

Policy 7 Lighting (*pg 2 - 124*) – No change

Explanation – No change

2.34 Otatara Zone

2.34.3 Policies

Policy 8 Lightspill (pg 2 – 135)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.36 Residential 1

2.36.3 Policies

Policy 13 Lightspill (pg 2 – 146)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.37 Residential 1A (Medium Density) Zone

2.37.3 Policies

Policy 13 Lightspill (pg 2 – 146)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.38 Residential 2 (Bluff and Omaui) Zone

2.38.3 Policies

Policy 13 Lightspill (pg 2 – 146)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.39 Residential 3 (Large Lot) Zone

Policy 13 Lightspill (pg 2 – 160)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.40 Rural 1 Zone

2.40.3 Policies

Policy 12 Lightspill (pg 2 – 166)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.41 Rural 2 (Rural Transition) Zone

2.41.3 Policies

Policy 11 Lightspill (pg 2 – 171)

To ~~minimise~~ avoid remedy or mitigate the adverse effects of lightspill.

Explanation – No change

2.42 Seaport Zone

2.42.3 Policies

Policy 6 Lightspill (pg 2 – 175) – No change

Explanation – No change

2.43 Smelter Zone

2.43.3 Policies

Policy 6 ~~Lightspill~~ Lighting (pg 2 – 179)

To ~~manage the effects of lightspill~~ provide for lighting from the aluminium smelting activities and associated operations, whilst managing lightspill so as to avoid adverse effects on nearby residential areas.

Explanation – No change

SECTION THREE - RULES

3.11 Lightspill (pg 3- 17)

Rule 3.11.1 – No change

Rule 3.11.2 – No change

Rule 3.11.3 – No change

Rule 3.11.4

Where an activity cannot meet the standards above, the activity is a restricted discretionary activity.

The matters over which the Council shall exercise its discretion are:

- (A) The effect of the lightspill on the transportation network, including the railway corridor, and on the amenities of properties nearby.
- (B) The effect of the lightspill on the skyline.

SECTION FOUR DEFINITIONS

Lux (pg 4 – 10) – No change