NOTICE OF MEETING

Notice is hereby given that a Meeting of the Hearings Panel will be held in the Council Chambers First Floor, Civic Administration Building, 101 Esk Street, Invercargill On Monday 26 January 2015 at 9.00 am

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

EIRWEN HARRIS
MANAGER, SECRETARIAL SERVICES
2. REPORT TO THE HEARINGS PANEL

2.1 HEARING PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No 23 – Smelter Zone
Report No 23A – Smelter Zone (Addendum to Report 23)
Report No 24 – Introduction

3. COMMITTEE IN PUBLIC EXCLUDED SESSION

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

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

<table>
<thead>
<tr>
<th>General subject of each matter to be considered</th>
<th>Reason for passing this resolution in relation to each matter</th>
<th>Ground(s) under Section 48(1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consideration of Resource Consent Application</td>
<td>A right of appeal lies to any court or tribunal against the final decision of the Local Authority in these proceedings.</td>
<td>Section 48 (2) (a) (1)</td>
</tr>
</tbody>
</table>
PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 23

Smelter Zone

26 January 2015, 9.00am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING

Reporting Officer: William J Watt
William J Watt Consulting Ltd

Peer Reviewed by: Dan Wells
JOHN EDMONDS AND ASSOCIATES LIMITED
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Executive Summary</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>Introduction</td>
<td>2</td>
</tr>
<tr>
<td>2.1.</td>
<td>Report Author</td>
<td>2</td>
</tr>
<tr>
<td>2.2.</td>
<td>Peer Review</td>
<td>2</td>
</tr>
<tr>
<td>2.3.</td>
<td>How to Read this Report</td>
<td>2</td>
</tr>
<tr>
<td>2.4.</td>
<td>Interpretation</td>
<td>2</td>
</tr>
<tr>
<td>2.5.</td>
<td>The Hearing Process</td>
<td>3</td>
</tr>
<tr>
<td>3.</td>
<td>Background</td>
<td>5</td>
</tr>
<tr>
<td>3.1.</td>
<td>Issues, Objectives and Policies</td>
<td>6</td>
</tr>
<tr>
<td>3.2.</td>
<td>Rules</td>
<td>6</td>
</tr>
<tr>
<td>4.</td>
<td>Statutory Context / Legislative Requirements</td>
<td>7</td>
</tr>
<tr>
<td>4.1.1.</td>
<td>Part 2 of the RMA</td>
<td>7</td>
</tr>
<tr>
<td>4.1.2.</td>
<td>Functions of Territorial Authorities under the RMA</td>
<td>8</td>
</tr>
<tr>
<td>4.2.</td>
<td>The Relevant Planning Policy Documents</td>
<td>8</td>
</tr>
<tr>
<td>4.2.1.</td>
<td>National Policy Statements</td>
<td>9</td>
</tr>
<tr>
<td>4.2.2.</td>
<td>National Environmental Standards</td>
<td>10</td>
</tr>
<tr>
<td>4.2.2.1.</td>
<td>Air quality standards</td>
<td>10</td>
</tr>
<tr>
<td>4.2.2.2.</td>
<td>Sources of human drinking water standard</td>
<td>10</td>
</tr>
<tr>
<td>4.2.2.3.</td>
<td>Telecommunications facilities</td>
<td>10</td>
</tr>
<tr>
<td>4.2.2.4.</td>
<td>Electricity transmission</td>
<td>10</td>
</tr>
<tr>
<td>4.2.2.5.</td>
<td>Assessing and managing contaminants in soil to protect human health</td>
<td>10</td>
</tr>
<tr>
<td>4.2.3.</td>
<td>Regional Policy Statements</td>
<td>10</td>
</tr>
<tr>
<td>4.2.4.</td>
<td>Regional Coastal Plan</td>
<td>11</td>
</tr>
<tr>
<td>4.2.5.</td>
<td>Iwi Management Plans</td>
<td>11</td>
</tr>
<tr>
<td>4.2.6.</td>
<td>The Operative District Plan</td>
<td>12</td>
</tr>
<tr>
<td>4.3.</td>
<td>Management Plans and Strategies Prepared under other Acts</td>
<td>12</td>
</tr>
<tr>
<td>4.3.2.</td>
<td>Local Government Act 2002</td>
<td>13</td>
</tr>
<tr>
<td>5.</td>
<td>Analysis of submissions</td>
<td>14</td>
</tr>
<tr>
<td>5.1.</td>
<td>The degree of protection afforded to the existing Smelter</td>
<td>14</td>
</tr>
<tr>
<td>5.2.</td>
<td>The extent to which the Plan should enable the Smelter to 'internalise' its effects</td>
<td>14</td>
</tr>
<tr>
<td>5.3.</td>
<td>Amenity Values</td>
<td>14</td>
</tr>
<tr>
<td>5.4.</td>
<td>The extent to which the Smelter Zone should incorporate the provisions of the Seaport Zone</td>
<td>14</td>
</tr>
<tr>
<td>5.5.</td>
<td>The extent to which the District Plan needs to make provision for the eventual closure of the Smelter</td>
<td>15</td>
</tr>
<tr>
<td>5.6.</td>
<td>Minor Changes</td>
<td>15</td>
</tr>
</tbody>
</table>
6. Discussion of Section 32 matters .......................................................... 16
   6.1 Relevant Section 32AA matters .......................................................... 16
   6.2 Section 32AA further evaluation ....................................................... 16

7. Concluding comments ........................................................................... 17

Appendix 1 - Recommendations in response to submissions ....................... 19
Appendix 2 - Recommended Changes to Proposed District Plan ................... 27
1. EXECUTIVE SUMMARY

The “Smelter Zone” has attracted a small number of submissions, all but one from New Zealand Aluminium Smelters Ltd (NZAS).

The major issue is the extent to which the District Plan should address the possibility of NZAS Tiwai plant ceasing operations, and the consequent issues of site rehabilitation and/or alternate land uses.

The NZAS Smelter (the Smelter) at Tiwai Point pre-dates the Resource Management Act. Its consent dates from the 1953 Town and Country Planning Act, and is straightforward and permissive.

The Proposed District Plan places a policy emphasis on ‘functional need’ to justify a coastal location. The Smelter does have a functional need of a coastal location because of its requirements for import of raw material and export of product. It also has a ‘functional need’ of coastal space because it has invested in the site and been established there for many years.

This report takes the view that:

(a) In the event of The Smelter closing, policies encouraging rehabilitation of the site are reasonable but any regulatory methods need to take account of the consent under which The Smelter was established.

(b) Any new use in the coastal zone would need to justify its use of the site anew in terms of national and regional policy, environmental effect, and functional need of a coastal location.

This report notes the potential for this site in relation to offshore oil or gas.

The second major issue raised in submissions is whether ‘port activities’ should be a permitted activity. The existence of the Tiwai Wharf and its associated cargo operations is acknowledged in the Proposed District Plan and is not considered to be a resource management issue of concern while the Smelter continues to operate as a smelter. The Proposed District Plan stops short of allowing ‘port activities’ carte blanche in the event of the Smelter closing. Any major development of this nature would raise issues that should be addressed anew via an application under the RMA or (most likely) a Plan Change.

Most of the other submission points relate to wording and semantics. Many make suggestions which would improve 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 an accredited Hearings Panel Chairman under the MfE 'Making Good Decisions' programme and have mediator accreditation 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. I have been practising as a planning consultant for just over four years.

2.2 Peer Review

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

2.3 How to Read this Report

This report is structured as follows:
- Interpretation (an explanation of some of the terms used).
- A summary of the hearing process.
- Background to the Smelter Zone 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 the Smelter Zone.

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 the Smelter 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:
- "AEE" means Assessment of Environmental Effects
- "Council" means the Invercargill City Council
- "FS" means further submitter in Appendix 2
- "Hearing Committee" means the District Plan Hearing Committee
- "ICC" means Invercargill City Council
2.5 The Hearing Process

Several hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been arranged in such a way as to ensure that submissions on similar issues are 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 Smelter provisions of the Proposed District Plan.

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

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the "RMA"). Section 42A provides for a report to be prepared prior to a hearing, setting out matters to which regard should be had 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:
(a) the hearing should be reconvened to allow responses to any report prepared, or
(b) 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, if they wish, may 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 relating to the Smelter Zone at Tiwai Point. These provisions include: Section 2.43, containing the zone-specific issues, objectives and policies, and section 3.41, containing the rules. There are also implications for the “Definitions”.

The NZAS website indicates that in the 1960’s Tiwai Point was chosen as the location of an aluminium smelter for a variety of reasons. From a New Zealand-wide perspective, the following factors were relevant to the siting of the Smelter:

- The national need to increase export earnings.
- The construction of the electricity generation facility at Deep Cove, the availability of large quantities of electricity required for a smelter, and the manageable transmission distance from Deep Cove to Tiwai Point.
- The combination of flat land and easy access to port facilities that would be necessary and could be readily developed.
- Downstream industry was anticipated, and the flat land between Invercargill and Tiwai and the Tiwai Peninsula itself were seen as ideal for the purpose.
- It was anticipated that a smelter and downstream activities would be a major generator of employment, both in itself and in downstream activities.

It was planned with confidence that Invercargill’s population could be expected to increase to around 100,000 by the turn of the century. Significant infrastructure was planned and much was built in anticipation of this development. (An example is the areas of services laid for urban expansion in South East Invercargill.)

There was little controversy at the time over the siting of The Smelter at Tiwai. The matter of the construction of a smelter was, however, part of the “Save Manapouri” controversy, which was occasioned by the proposal for the West Arm-Deep Cove tunnel and the proposed power station at Deep Cove and which, until there was a change in government, involved raising the level of Lake Manapouri. “Save Lake Manapouri” was New Zealand’s first, big environmental controversy and was acknowledged by Sir Jack Marshall (then Prime Minister) as the deciding factor in the defeat of his government at the next general election.

At that time the area was within the jurisdiction of the Southland County Council and the relevant planning legislation was the 1953 Town and Country Planning Act. On file at the Invercargill City Council is a letter dated 27 June 1969 from the Southland County Council advising regarding an application by Comalco Aluminium Ltd. The following is relevant:

"The (Southland County) Council, having previously resolved to bring down a change to its District Scheme by rezoning Block XIII, Campbelltown Hundred, from Rural to Industrial D, resolved, on the grounds of urgency, that the application be approved and that the applicant be permitted to use the site for the following purposes:

(i) To construct an Aluminium Smelter and ancillary services and amenities including caretakers' quarters.
(ii) To erect and occupy a construction camp for construction workers.
(iii) To carry out such works as may be appropriate to aid the establishment of the Smelter.
(iv) From time to time to construct additions to the Smelter and ancillary services.
(v) To operate the Smelter and expansions from time to time and ancillary services connected therewith.
(vi) To establish and operate any other allied industry from time to time.

"The Council’s consent was, however, granted subject to the condition that The Smelter and its ancillary services are built and operated in accordance with standards
The Smelter commenced operations in 1971.

The Smelter remains a very significant part of the Southland economy, and contributes currently around $525 million (10.5% of Southland's GDP). Employment created and sustained by the Smelter is a very important part of Invercargill's economic base.

The 1969 'planning approval' made no provision for the eventual closure of the Smelter and rehabilitation of the site. This possibility surfaced as a serious issue only comparatively recently, in the context of public statements made by NZAS in relation to negotiating long-term electricity pricing.

It is appropriate to note that about this time, my understanding is that a water right was granted by the then Southland Catchment Board to enable the Smelter to take water from what is known as the Tiwai aquifer. That is how the Smelter still obtains its fresh water. The Tiwai aquifer has to be managed carefully in that if the water take is too large, there is a risk of salt water incursion – which would destroy the integrity of the supply. To address that possibility, the Smelter has an agreement with the Invercargill City Council to the effect that the Council will supply water to Tiwai if the integrity of the aquifer is threatened. The fiscal implications of this possibility for the Council would be significant. Water supply is therefore a very real consideration for any use of the site other than for an aluminium smelter under the current agreements.

Another important consideration for any future use would be the capacity and life expectancy of the road bridge across Awarua Bay, and any associated agreements between the Council and the Smelter.

The Smelter operates pursuant to a series of discharge consents, both to air and to water, administered by Environment Southland. It is relevant to note the very good track record of the Smelter in achieving compliance and in improving its environmental footprint.

The philosophy of the Operative District Plan is to enable the operation of the Smelter unhindered within the confines of its site but to control the effects of the operation of the Smelter at the boundaries of the site. This approach is carried through to the Proposed District Plan without significant changes. The policies have been strengthened and the possibility of the Smelter ceasing operations within the tenure of the Plan has been considered.

### 3.1 Issues, Objectives and Policies

In the Zone-Specific section of the Issues, Objectives and Policies, the provisions especially relevant to the Smelter are set out at 2.43 (pages 2-177 – 2-180). They focus on maintaining and protecting the operational requirements for the Smelter, minimising adverse effects on amenity values on neighbouring sites, and also on addressing maintenance and rehabilitation of the site.

### 3.2 Rules

The Rules in relation to aluminium smelting are set out at Section 3.41. Basically, aluminium smelting and agriculture are permitted activities – anything else is non-complying. (Land at Tiwai not actually utilised for aluminium smelting and associated activities is used for agriculture or remains in indigenous vegetation).
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 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 pf 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 iwi planning documents.

4.1.1 Part 2 of the RMA

Part 2 of the RMA (Sections 5-8) 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 the Smelter at Tiwai fall within the purpose of the Act.

Section 6 of the RMA sets out matters of national importance which must be recognised and for which provision must be made. One of these matters is (d) – the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers. It has to be recognised from the outset that the operational requirements of the Smelter and security considerations preclude unfettered public access to the coastal marine area. Conversely, because the matter is a national priority, public access to the coastal marine area should not be precluded unnecessarily and needs to be actively planned for.

Section 7 of the RMA sets out "other matters" for 'particular regard'. The most relevant matters are:

- (b) the efficient use and development of natural and physical resources
- (c) the maintenance and enhancement of amenity values
- (f) maintenance and enhancement of the quality of the environment
- (g) Any finite characteristics of natural and physical resources
- (i) the effects of climate change

It is considered that the provisions relating to the Smelter 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. While it became apparent that the Iwi representatives consider that much had been compromised by the initial location of the Smelter on Tiwai Peninsula, its continued operation did not appear to be the cause of ongoing concern. Its eventual closure, and whatever replaces it, would be.
The Smelter provisions in the Proposed Plan raise issues of national importance and issues to which the Council must have particular regard. Under Section 5 of the Act, managing the use of resources (in this case, an established use in the coastal environment) to 'enable' communities to provide for their wellbeing (in this case – economic – 10.5% of the region's GDP) – in my opinion justifies the permissive approach of the Plan for this Zone.

This has to be balanced against the Section 6 matters, in particular the protection of the coastal environment and associated physical resources, and the maintenance of public access along it. This is particularly relevant in considering options for the site following any closure of the current Smelter operations.

There can be little doubt that the Smelter would have faced a much sterner test had it been proposed after the enactment of the RMA. However that is irrelevant, because the Smelter had been legally established and operating for over 20 years when the RMA was enacted.

What has to be considered now under the RMA is any change to the Smelter and its operation.

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 Smelter-related provisions in the Proposed District Plan include policies, and methods intended to manage the actual or potential effects of smelter-related activities and reverse sensitivity issues.

Again, if the Smelter was being considered as a new development, today, issues would need to be addressed. However, the Smelter is legally established, and what has to be considered now under the RMA is any change to the Smelter and its operation, and long-term use of the site.

4.2 The Relevant Planning Documents

The RMA specifics other documents to which District Plans shall give effect and with which they are not to be inconsistent. The Council is required to take these documents into account in making decisions.

A district plan must give effect to
(a) Any national policy statement, and
(b) Any new Zealand Coastal Policy Statement, and
(c) Any regional policy statement

A district plan must also not be inconsistent with:
(a) A water conservation order, or
(b) A regional plan
When making decisions the Council is required to take into account any relevant Iwi Management Plan and also have regard to any
(a) Proposed regional policy statement, or
(b) Proposed regional plan, and
(c) Management plans and strategies prepared under other Acts.

4.2.1 National Policy Statements

The National Policy Statement on Electricity Transmission
- acknowledges the national significance of the national grid, which now has to be considered in local decision making on resource management.
- recognises the national benefits we all get from electricity transmission, such as better security of supply of electricity.
- gives guidance to local decision makers in the management of the impacts of the transmission network on its environment.
- guides the management of the adverse effects of activities from third parties on the grid. This will help reduce constraints on the operation, maintenance, upgrading and development of the grid.
- ensures long term strategic planning for elements of the National Grid.

This is dealt within the Infrastructure sections of the Proposed District Plan but it should be noted here that under the NPS the National Grid lines supplying the Smelter have the status of a permitted activity.

The National Policy Statement for Renewable Electricity Generation is not applicable to the Tiwai Point Aluminium Smelter.

The NZ coastal policy statement (led by the Department of Conservation) has six objectives:
- To safeguard the integrity, form, functioning and resilience of the coastal environment
- To preserve the natural character of the coastal environment and protect natural features and landscape values
- To take account of the principles of the Treaty of Waitangi,
- To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by
- To ensure that coastal hazard risks taking account of climate change, are managed
- To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development

The NZCPS would need to be considered in relation to any extension or intensification or alteration of the smelting activities carried out at Tiwai. It is certainly relevant to management of the site in the event that the Smelter ceased operations. The sixth objective is relevant to the intent of the Smelter Zone – which basically is to enable the Smelter to continue operations.

The National Policy Statement for Freshwater Management pertains to the water resource and is within the bailiwick of Environment Southland. The Smelter's dependence on the Tiwai aquifer for freshwater supply, and therefore on the sustainability of that aquifer, is noted here.
4.2.2 National Environmental Standards

The following standards are in force as regulations and must be met in the Smelter Zone

4.2.2.1 Air quality standards

The NES is made up of 14 separate but interlinked standards. The 14 standards in the NES include seven standards banning activities that discharge significant quantities of dioxins and other toxics into the air, five standards for ambient (outdoor) air quality, a design standard for new wood burners installed in urban areas, a requirement for landfills over 1 million tonnes of refuse to collect greenhouse gas emissions. This NES is within the bailiwick of Environment Southland.

4.2.2.2 Sources of human drinking water standard

This does not relate directly to the Smelter Zone.

4.2.2.3 Telecommunications facilities

This relates mainly to cell phones. The electricity-intensive nature of the Smelter operation makes it unlikely that a cell phone facility would be contemplated within the Zone.

4.2.2.4 Electricity transmission

The NES sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and upgrade of existing lines. It needs to be considered within the "infrastructure" section of the Plan.

4.2.2.5 Assessing and managing contaminants in soil to protect human health

This has its own section within the Plan.

4.2.3 Regional Policy Statements

Under Sections 74 and 75 of the RMA, the Council shall give effect to any operative regional policy statement and have regard to any proposed regional policy statement.

In this case two sets of documents must be considered:
1. The Operative Regional Policy Statement (1997)

A number of issues in these documents pertain to the Smelter Zone. The zone is in the coastal environment and also in a zone subject to natural hazard (in particular, sea level rise and tsunami). However, the Smelter was in existence and operating well before the adoption of the Operative Regional Policy Statement or the promulgation of the Proposed Regional Policy Statement.

The general thrust of these documents is that the qualities and attributes of the coastal environment need to be considered in planning for the coast, and that specific provision must be made for activities that have a functional need of a coastal location (such as ports).

The Smelter does have a ‘functional need’ of a coastal location – put simply, it must be within conveyor distance of a wharf for import of raw material, and within...
convenient transportation of port facilities for export of product. It has a functional
need of the plant and equipment that are already on site. The direction given by the
Regional Policy Statements is, however, relevant to whatever might follow aluminium
smelting as a use for the site in the event that the Smelter ceased operations.

4.2.4 Regional Coastal Plan

The Regional Coastal Plan for Southland (RCPS) was approved by the Minister of
Conservation and made operative on 10 September 2008. Its ambit includes
- the coastal marine area
- an area of coastal dominance
- an area of coastal influence
- an area of coastal hinterland

It is accepted that the Smelter Zone lies within the ambit of the RCPS.

Under Part B of the RCPS the following issues are noted that (in my opinion) would
need to be addressed in the Proposed District Plan:

(Chapter 3 page 27)
- Abandoned structures can be visually unattractive, and a clear threat to public
  safety and property
- Port facilities and activities can affect the natural values of the harbour, water
  quality, amenity, views and noise.

(Chapter 3 page 29)
- Lack of access to the area and consequent need to preserve access along the
  beaches
- Threat of activities in the coastal marine area adversely affecting the natural
  values of adjoining coastal environment.

Section 4 of the RCPS deals with 'Fundamental Principles'. Objective 4.2.1 is
particularly relevant:
"To ensure that only those activities and developments that have a functional
need to be located in the coastal marine area or for which there is no
practicable alternative location outside the coastal marine area are situated
there" (Chapter 4 page 5).

The corresponding policies require that a coastal location be justified, alternatives be
considered, and the size be the minimum required.

The general thrust of the RCPS is that provision be made within the coastal
environment for activities which require a coastal location, but that the coastal
environment be managed conservatively having careful regard to conservation of its
natural values.
Put simply, if the Smelter was a new project, its need for and use of its site at Tiwai
Point would need to be justified against the provisions of the RCPS but would not be
precluded by them.

4.2.5 Iwi Management Plans

Ngai Tahu has lodged an Iwi Management Plan with the Council. The relevant
document is Te Tangi a Tauira – the Cry of the People.
The general thrust of this document with respect to the coast is that it is a finite resource, and has multiple values both intrinsically and for people. Use of the coast needs to be carefully considered, with the multiple values of the coast taken into consideration.

Again to put the issue simply – if the Smelter was under consideration as a new project and the Tiwai Point site undeveloped, the general tenor of Te Tangi a Taiura would be to oppose it as being inconsistent with conservation of coastal values.

That caution, implicit throughout Te Tangi a Taiura, needs to be incorporated in any plan provisions that apply after smelter closure.

4.2.6 The Operative District Plan

The Operative District Plan makes provision for a Smelter Sub-Area. The ‘permitted activities’ list focusses on aluminium smelting and related activities, but includes ‘industrial activities’. “Agriculture” is also included – to allow for use of the areas not actually occupied by the Smelter.

Possible closure of the Smelter was not considered in the Operative Plan provisions.

4.3 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.

4.3.1 Conservation Act 1987 – Conservation Management Strategy

The most up to date and relevant document is the Conservation Management Strategy 2014-2024 (CMS). The version used in this report is the June 2013 draft. The Conservation General Policy (2005) requires that regard be given to local government planning documents. In turn, local government planning processes are required to have regard to the Department's statutory plans when preparing documents under the RMA.

The coastal environment of the Invercargill City District is within the “Awarua Place”, described in the CMS as follows: “The Awarua Place extends from Fortrose Spit in the east, to Omaui and New River Estuary in the west and The Bluff/Motupōhue in the south”. The values and attributes of the “Awarua Place” are set out in pages 98-105 of the CMS, together with the management philosophy of the Department of Conservation for this area. The following (from page 100) applies to Tiwai Peninsula:

“Tiwai Peninsula has a mosaic of indigenous vegetation including areas that are dominated by the largest remaining expanse of red tussock land nationally, as well as lowland harakeke/flax (Phormium tenax), shrub species and rārahu/bracken (Pteridium esculentum). It is also the southern limit for several plants, such as glaucous speargrass (Aciphylla glaucescens) and tōmatakuru/matagouri (Discaria toumatou). Tōtara forests are thought to have once been the dominant indigenous vegetation cover, but this was progressively lost following the arrival of humans. However, there are stands of regenerating tōtara forest within this area. The peninsula provides habitat for several threatened and at risk species, including Libertia perigrinans, Raoulia aff. hookeri, southern sand daphne, plus the declining forget-me-not Myosotis pygmaea and tātaraheke/sand coprosma (Coprosma acerosa).”

In my view the approach taken by the District Plan to the Aluminium Smelter at Tiwai Point, which (in summary) respects the 1967 consent given to Comalco, is consistent
with the CMD in that the District Plan is not creating the opportunity for further development or alternative industrial uses.

4.3.2 Local Government Act 2002

The Big Picture, a non-statutory spatial plan prepared by the ICC, is relevant.

Map 31 refers to Tiwai. The Plan records the following values:
- Site of the internationally significant Tiwai point Aluminium Smelter enterprise
- Significant network corridors – following the lines of the road and access bridge, and the overhead electricity lines 110 kv or greater
- Burial sites of significance to tangata whenua.

The Big Picture records the following issues:
- Maintaining the functionality of the Tiwai Point Aluminium Smelter
- Enhancing Public Access around the Tiwai point Shoreline
- Maintaining the integrity of network corridors.

In my view the approach taken in the proposed District Plan is consistent with The Big Picture.
5. ANALYSIS OF THE SUBMISSIONS

The planning issues pertaining to the Smelter Zone are, in summary:
(a) The degree of protection that should be afforded to the existing Smelter at Tiwai Point
(b) The extent to which the Plan should enable the Smelter to 'internalise' its land use effects
(c) The 'amenity values' of the zone and the way they are reflected in the District Plan.
(d) The extent to which the Smelter Zone should incorporate the provisions of the Seaport Zone
(e) The extent to which the District Plan needs to make provision for the eventual closure of the Smelter.

5.1 The degree of protection afforded to the existing Smelter

Under its original planning approval the Smelter has the right to operate virtually unconstrained by land use conditions. The reality of this situation is reflected in the present zoning.

The philosophy of the Proposed District Plan closely mirrors that of the Operative Plan: That is, to recognise the Smelter Zone as a discrete zone occupied by one enterprise. That enterprise is best placed to regulate the effects of land use within the zone because it both causes and 'suffers' the effect. The role of the District Plan is to regulate effects of the Smelter operation on other land uses outside of the zone. That approach is supported by NZAS and not opposed in principle by anyone else.

5.2 The extent to which the Plan should enable the Smelter to 'internalise' its effects.

Again, the philosophy of the Proposed District Plan closely mirrors that of the Operative District Plan. In terms of 'effects' the important issue is the 'effect' on properties outside the Smelter Zone. Because the whole site is in one ownership, there are no neighbours 'inside' the zone.

5.3 Amenity values

This topic has already been considered in my earlier S 42A report on "Amenities"

5.4 The extent to which the Smelter Zone should incorporate the provisions of the Seaport Zone

South Port opposes Rule 3.41.1 in part. The submitter considers that Seaport Activities should also be included in the list of activities that are permitted within the Smelter Zone, and seeks the inclusion of Seaport Activities as a permitted activity.

At page 4-15 the definition of Seaport Activities reads as follows:

*Means those activities, buildings and structures associated with, and necessary for, the loading and unloading of goods and materials to and from ships and boats and their associated storage, handling, consolidation, and distribution. This includes, but is not limited to, associated administration activities, staff facilities and infrastructure, and also includes the repair, maintenance and servicing of ships and boats, border control activities, and facilities for the use of passengers including associated vehicle parking.*

(Note that I have recommended minor changes to this definition as part of my Section 42A report on the Seaport Zone)
While the logic of recognising the port-related activities pertaining to smelter operations such as the wharf and cargo-handling areas is obvious, the logic of permitting the creation of a seaport as a permitted activity within the Smelter Zone is more debatable. The issue is academic whilst NZAS remains the owner and in control of what happens on site, the Smelter continues in operation and any port development is associated with or ancillary to aluminium smelting. However the possibility of the Smelter discontinuing operation and the site being sold needs to be considered. Any use of the area as a seaport unrelated to the Smelter (e.g. in relation to offshore oil servicing) may be in the national and regional interest but raises a whole host of issues in terms of effects that would need to be considered and the national, regional and local policy framework against which the proposal would need to be assessed. This would be achieved most appropriately by way of a future RMA application (most likely a Plan Change) and should not be anticipated now. Neither should such activities be permitted at this stage.

5.5 The extent to which the District Plan needs to make provision for the eventual closure of the Smelter

NZAS opposes Policy 10 – Rehabilitation and re-use of the site – and wants it deleted.

Uncertainties regarding the future of the NZAS Smelter at Tiwai were prominent in local media during the preparation of the Proposed District Plan. This contrasts with the situation during the preparation of the Operative District Plan, when the option of closing the Smelter was seldom raised in consultation. The RMA requires District Plans to be reviewed every ten years and if, within the ten year tenure of the plan, closure of a large industry is a possibility, then the land use effects of that closure need to be addressed in the Plan.

On the one hand, the tenor of the Regional Policy Statement and the high priority it places on the quality of the coastal environment are a strong imperative to address the issue of rehabilitation. On the other hand, the matter of eventual closure was, clearly, not considered at the time Comalco was granted planning approval to establish and operate the Smelter. In my view Policy 10 is a reasonable compromise.

The site is subject to natural hazard, particularly tsunami and sea level rise. This may or may not impose constraints on other industries that might be attracted to the site but the possibility of other industrial activities on the site would need to be addressed by way of a future RMA process (most likely, a Plan Change).

5.6 Minor Changes

In a number of instances NZAS has suggested changes to the wording which, with one or two exceptions, are in my view an improvement on the original and should be accepted.

It should be noted that there were no submissions regarding public access around the Tiwai Peninsula. Public access to the coast is restricted owing to security and operational issues associated with the Smelter. Access can be arranged through the Smelter for bona fide access to much of the coastal fringe but it is not available unimpeded and as of right. The NZCPS places a high priority on public access and it is definitely a consideration for any future use or redevelopment of this site.
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 to examine policies and rules 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

The following are the matters considered relevant for further evaluation under Section 32AA of the RMA.

- Minor changes to the introductory text, objectives, and policies
- Minor changes to the rules to clarify what is covered by ‘aluminium smelting’
- Minor changes to the definitions

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

6.2 Section 32AA Further Evaluation

The “Smelter Zone” section of the original Section 32 report (pages 243 - 247) is relevant to this report. The changes proposed are within the scope of the original evaluation findings and do not raise any additional matters for consideration.

The changes that are recommended are minor. It follows that the environmental, economic, social or cultural effects anticipated to arise as a consequence of the changes are minor. A detailed assessment or quantification of costs and benefits is neither practical nor necessary with respect to the plan provisions pertaining to the Smelter Zone.
7. CONCLUDING COMMENTS

The recommended approach respects the 1967 planning consent given to Comalco to establish and operate the Smelter and retains considerable flexibility to enable the Smelter to continue to operate, contributing significantly to the economic and therefore other well-beings of the community.

The Proposed District Plan is precise in that the permitted activities are those relating to the Smelter and its continued operation.

Apart from a policy encouraging rehabilitation of the site, the Proposed District Plan does not address land use issues arising from the Smelter ceasing operations.

It is appropriate that the Smelter be able to continue to operate as a permitted activity but that any new use of the site unrelated to the Smelter would need to be considered under the RMA as it stands at the time.
## APPENDIX 1 – RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

<table>
<thead>
<tr>
<th>Submitter</th>
<th>Plan Provision/Submission</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td></td>
<td><strong>SECTION TWO – ISSUES, OBJECTIVES AND POLICIES</strong></td>
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<tr>
<td>2.43 Introduction</td>
<td>The submitter considers the introduction should refer to the wharf at Tiwai Point as it is considered an integral part of their operation. DECISION SOUGHT: Amend Introduction as follows: <em>The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for Tiwai Wharf as part of its operations and a location adjacent to a port (for the import of raw materials) and within close proximity to port facilities at Bluff for export of product.</em></td>
<td>Accept</td>
</tr>
<tr>
<td>71.28 NZAS Ltd</td>
<td><strong>Issue 1:</strong> NZAS supports Issue 1. The submitter supports the recognition of the need to protect the Smelter’s operational requirements. DECISION SOUGHT: Retain Issue 1</td>
<td>Accept</td>
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<td>2.43.2 Objectives</td>
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<td>Plan Provision/Submission</td>
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<tr>
<td><strong>Objective 1:</strong> NZAS supports Objective 1 - the recognition of the economic importance of the Smelter.</td>
<td>Accept No change in wording is necessary.</td>
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<td><strong>Policy 1:</strong> NZAS supports the wording of Policy 1 - Smelter Zone.</td>
<td>Accept</td>
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<td><strong>Policy 2 - Noise:</strong> NZAS opposes the wording of Policy 2 - Noise - in part.</td>
<td>Accept The suggested wording is an improvement on the original. Amend Policy 2 to read: To provide for the opportunity to generate levels of noise in keeping with the operation of the Aluminium Smelter, whist also recognising that residential areas in Bluff are entitled to “protection from unreasonable or excessive noise as part of their residential amenity in terms of freedom from noise.”</td>
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<tr>
<td><strong>Policy 3 - Odour:</strong> NZAS supports this Policy in part.</td>
<td>Accept The wording suggested by NZAS is an improvement. The grammar of the original is incorrect. Amend Policy 3 to read: To accept that odour emissions associated with aluminium smelting...</td>
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<td><strong>that odour emissions associated with aluminium smelting activities whist also ensuring the absence of objectionable odour.</strong></td>
<td>activities whist also ensuring the absence of objectionable odour.</td>
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<tr>
<td>71.35 NZAS Ltd</td>
<td><strong>Policy 4 – Glare:</strong> NZAS Opposes the wording of Policy 4 – Glare - in part. <strong>DECISION SOUGHT</strong> NZAS requests that Policy 4 be re-worded as follows: To avoid, remedy or mitigate nuisance from glare. Explanation: The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.</td>
<td>Accept in part, reject in part The suggested rewording of the Policy to use the phrase ‘avoid, remedy or mitigate’ aligns with the RMA is therefore considered appropriate. Glare from the Smelter can, and has, affected ‘transportation networks’. The position of the Smelter, adjacent to the Port of Bluff, creates the potential for glare from a structure within the Smelter to affect navigation, particularly ships using the leading marks to transit the channels into Bluff Harbour. The reference to ‘transportation networks’ should stay. Amend Policy 4 to read: To avoid, remedy or mitigate nuisance from glare. <strong>Explanation:</strong> The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.</td>
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<td>71.38 NZAS Ltd</td>
<td><strong>Policy 7 – Wind, signage, height</strong> NZAS supports the wording of Policy 7 – Wind ... – but notes that this demonstrates the inappropriateness of the broadness of Objective 2.</td>
<td>Accept in part: The submitter’s support for this provision is noted. The issues with respect to Objective 2 were canvassed at the hearing on Amenity Values. No change in wording is necessary (unless required in response to recommendations relating to the Signage rule).</td>
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<tr>
<td>71.39 NZAS Ltd</td>
<td><strong>Policy 8 – On-site servicing capacity</strong> NZAS supports the wording of Policy 8. <strong>DECISION SOUGHT</strong></td>
<td>Accept</td>
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<td>71.40 NZAS Ltd</td>
<td>Retain Policy 9 – Hazardous substances</td>
<td>Accept No change in wording is necessary.</td>
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<td>NZAS supports the wording of Policy 9.</td>
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<td>DECISION SOUGHT</td>
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<tr>
<td>71.41 NZAS Ltd</td>
<td>Retain Policy 10 Rehabilitation and re-use of the site NZAS</td>
<td>Reject in part</td>
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<td></td>
<td>opposes Policy 10</td>
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<td>The submitter does not consider the policy achieves its goal of</td>
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<td>encouraging appropriate adaption, reuse and remediation of the</td>
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<td>site as it is currently worded.</td>
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<td>The submitter opposes the requirement that buildings be “well-</td>
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<td>maintained” on the grounds that it believes the maintenance</td>
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<td>plan is a matter for its own determination and consideration.</td>
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<td>The submitter considers the term “demolition and replacement”</td>
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<td>is confusing as it implies that if a building is demolished then</td>
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<td>it should be replaced, when this may not be the best option. The</td>
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<td>submitter also notes that it is not clear how demolition is to be</td>
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<td>promoted.</td>
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<td>The submitter considers that the policy is open to</td>
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<td>misinterpretation as it is not clear whether it is intended to</td>
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<td>apply during the life of the Smelter or if part of it is only to apply once the Smelter is decommissioned.</td>
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<td>DECISION SOUGHT</td>
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1. Uncertainties regarding the future of the NZAS Smelter at Tiwai were prominent in local and national media during the preparation of the Proposed District Plan. This contrasts with the situation during the preparation of the Operative District Plan, when the option of closing the Smelter was seldom discussed. The RMA requires District Plans to be reviewed every ten years and if, within the ten year tenure of the plan, closure of a large industry is a possibility, then the land use effects of that closure need to be addressed in the Plan.

2. The submitter does raise some legitimate points about the scope of the policy. While ill-maintained and derelict structures can adversely affect amenities of any area, in this instance it would be a legitimate issue for the Plan to address if a change of use was to be proposed or if Smelter activities were to be discontinued. It is acknowledged that there should be no presumption in favour of retaining, rather than demolishing, buildings in this zone. “Replacement” may not be the best option following demolition. Furthermore, this submission draws attention to the fact that the policy (as notified) focuses rather narrowly on buildings, when the broader issue may well be rehabilitation of the site.

3. I recommend amending Policy 10 to read:

   "Rehabilitation and re-use of buildings: In the event that smelter activities are discontinued, to encourage and where possible require the rehabilitation of the site, including removal, maintenance and/or adaptive re-use of buildings. To require that buildings in the Smelter..."
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<td>Zone will be well maintained through their service life, and to promote their</td>
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<td>demolition and replacement, or adaptive re-use, if requirements change.</td>
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<td>2.43.4 Methods of Implementation</td>
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<tr>
<td>71.44 NZAS Ltd</td>
<td>Methods 1-2, 4,6-7</td>
<td>Accept</td>
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<td></td>
<td>NZAS supports methods 1,2,4,6 and 7.</td>
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<td>DECISION SOUGHT</td>
<td>Retain Methods 1,2,4,6,7</td>
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<tr>
<td>71.45 NZAS Ltd</td>
<td>Methods 3,5</td>
<td>Reject</td>
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<td>NZAS opposes Methods 3 and 5, on the basis that the submitter feels there is no</td>
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<td>justification for referring to amenity values in relation to the Smelter zone</td>
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<td>and for any requirement that they be identified. Further, the submitter</td>
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<td>considers that it is its place to determine the layout of the site and this</td>
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<td>may not be in accord with the amenity values that exist elsewhere in the city</td>
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<td>district.</td>
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<td></td>
<td>DECISION SOUGHT</td>
<td>Delete Methods 3,5.</td>
</tr>
<tr>
<td>71.46 NZAS Ltd</td>
<td>Method 8</td>
<td>Accept</td>
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</tbody>
</table>

Section 42A Report
Smelter Zone

January 2015
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<tr>
<th>Submitter</th>
<th>Plan Provision/Submission</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>NZAS</td>
<td>NZAS opposes Method 8 in part, on the basis that it is too vague about who should be consulted.</td>
<td>The suggested wording is an improvement on the original. Must amend Method 8 to read:</td>
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<td></td>
<td>DECISION SOUGHT</td>
<td>Method 8: Consult with stakeholders who may be affected by the operation of the Smelter, for example landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.</td>
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<tr>
<td>SECTION THREE - RULES</td>
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<tr>
<td>3.41 SMELTER ZONE</td>
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<tr>
<td>24.69 South Port NZ Ltd</td>
<td>Rule 3.41.1  South Port opposes Rule 3.41.1 in part. DECISION SOUGHT  The submitter considers that Seaport Activities should also be included in the list of activities that are permitted within the Smelter Zone, and seeks the inclusion of Seaport Activities as a permitted activity.</td>
<td>Reject  While the logic of recognising the port-related activities of the Smelter such as the wharf and cargo-handling areas are obvious, the creation of an entire seaport as a permitted activity within the Smelter Zone is not. The issue is academic whilst NZAS remains the owner and in control of what happens on site and the Smelter continues in operation. In the event of the Smelter closing and other uses being considered, an application under the RMA (most likely a Plan Change) would be appropriate.</td>
</tr>
<tr>
<td>FS2.45 NZAS Ltd</td>
<td>Rule 3.41.1  NZAS supports “seaport activities” being included as a permitted activity in the Smelter Zone. DECISION SOUGHT  As for 24.69 (above)</td>
<td>Reject  On the same basis and for the same reason as 24.69 (above).</td>
</tr>
<tr>
<td>71.62 NZAS Ltd</td>
<td>3.41.1</td>
<td>Reject in part</td>
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<td>Submitter</td>
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<td>Recommendation</td>
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<td>WAS Ltd</td>
<td>WAS supports Rule 3.41.1 in part.</td>
<td>I believe this change is unnecessary and that changes are best made to the definition of Aluminium Smelting. My recommended response to submission 71.65 (below) recommends changes to the definition of aluminium smelting, making it clear that activities such as those sought by the applicant are enabled. The thrust of that recommended wording is that whatever happens on site should relate in some direct way to aluminium smelting because that is the purpose of the Smelter Zone.</td>
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<tr>
<td>71.63 NZAS Ltd</td>
<td>3.41.2 NZAS opposes Rule 3.41.2 in part.</td>
<td>Accept</td>
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<td>DECISION SOUGHT</td>
<td>Amending the Rule as submitted would add clarity. Amend Rule 3.41.2 to read: Non-complying activities: The following are non-complying activities in the Smelter Zone: (A) Any other activity not listed as permitted, controlled, restricted discretionary or discretionary.&quot;</td>
</tr>
<tr>
<td>FS32.2 Placer Investments Ltd</td>
<td>3.41.2 Support submission 71.63</td>
<td>Accept in Part</td>
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<td></td>
<td>DECISION SOUGHT</td>
<td>The original submission this further submission supports is accepted. However, it is not accepted that mining within the Smelter Zone should be a permitted activity. As with the Operative District Plan, it is only earthworks provisions that are intended to be permitted. The placement of the rule after the heading 'Earthworks and Filling Activities' is evidence that it is intended that the exclusion for the Smelter Zone only applies to the Earthworks and Filling Activities rules and not those relating to Mineral Extraction. It is accepted that the numbering of the Plan and the wording of rule 3.17.1 as notified may make this unclear. It is recommended that this be rectified by making the following change: &quot;3.17.1 This rule does not apply in the Smelter Zone.&quot;</td>
</tr>
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</table>
Mining cannot reasonably be foreseen as an activity within the Smelter Zone and is not one of the suite of activities that is seen as compatible with or ancillary to aluminium smelting. Further, mining has the potential to affect the Tiwai Aquifer, on which the Smelter depends for its water supply. Non-complying status for mining does not preclude it but does ensure that its effects are properly identified and addressed through the resource consent process.

### DEFINITIONS

**71.65 NZAS Ltd**

Aluminium smelting

Support in part. The submitter considers that the term should be renamed “Aluminium smelting and ancillary activities” to support the activities carried out on the site that go beyond those typically considered to be smelting.

The submitter also notes that the definition refers to the "industrial" activities of smelting, but highlights that there are activities on the site that support the core smelting business that are not industrial.

The submitter would also like to recognise earthworks and firefighting and emergency services within the definition as these are considered core to the submitter’s operation.

**DECISION SOUGHT**

Amend the definition of “Aluminium smelting” as follows:

*Aluminium Smelting and ancillary activities*: Means the casting and smelting of aluminium, together with those industrial activities providing equipment, product or other inputs to these processes, and includes:

- Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker’s accommodation, wharves, stores, roading, parking and/or essential services.
- Stockpiles, facilities and structures for the storage, loading and unloading.
- The disposal and/or treatment of waste material and effluent associated with the above.
- The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.
- Earthworks.
- Fire fighting and emergency services associated with aluminium smelting.

It makes better sense to include ‘industrial and other ancillary activities’ within the text of the definition rather than in the words ‘and ancillary activities’ in the title.

It is considered appropriate to include firefighting and emergency
<table>
<thead>
<tr>
<th>Submitter</th>
<th>Plan Provision/Submission</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>parking and/or essential services. (B) Stockpiles, facilities and structures for the storage, loading and unloading. (C) The disposal and/or treatment of waste material and effluent associated with the above. (D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting. (E) Earthworks. (F) Activities associated with fire fighting and emergency services.</td>
<td>services associated with aluminium smelting, without giving permitted activity status to any firefighting or emergency service.</td>
</tr>
</tbody>
</table>
APPENDIX 2: RECOMMENDED CHANGES TO PROPOSED DISTRICT PLAN

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

2.43 Smelter Zone
The Smelter Zone offers the opportunity for the Aluminium Smelter industry to operate, maintain and upgrade an aluminium Smelter at Tiwai Point, along with associated industrial activities.

The Aluminium Smelter at Tiwai Point has been in operation since 1971. Employment, both directly at the Smelter and in associated services, accounts for a significant proportion of Invercargill’s economic critical mass. The presence of a large aquifer means that the Smelter is self-sufficient in terms of water supply, and waste water is treated on-site. Environmental effects of the Smelter operation are continuously monitored and independently reviewed.

The characteristics of aluminium smelting activities include high noise, light and glare levels, the opportunity to generate odour emissions, the storage and use of hazardous substances and frequent use and visitation by heavy vehicles and hazard transporters.

The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for Tiwai wharf as part of its operations a location adjacent to a port (for import of alumina) and within close proximity to port facilities at Bluff for export of product. Electricity supply and roading infrastructure have been constructed to meet the requirements of the smelting operation on this site.

At some stage the Smelter may be considered by its owners to have completed its operational life, and the facility may be closed. In that event, maintenance and rehabilitation of the site could be a significant issue.

The Smelter Zone adjoins recognised areas of indigenous biodiversity. There are a number of archaeological sites of heritage value within the Zone and more on the coastline adjoining the Zone.

2.43.1 Issues – no change

2.43.2 Objectives

Objective 1: Enabling a viable aluminium Smelter to operate at Tiwai Point, which is internationally competitive and which forms the basis for a significant part of the economic critical mass of Invercargill.

Objective 2: Identification, maintenance and enhancement of the amenity values.

2.43.3 Policies

Policy 1 No change

Policy 2 Noise: To provide for the opportunity to generate levels of noise in keeping with the operation of the Aluminium Smelter, whilst also recognising that residential areas in Bluff are entitled to protection from unsustainable or excessive noise as part of their residential amenity in terms of freedom from noise.

Explanation: The Tiwai Point Aluminium Smelter is sited on a peninsula surrounded on three sides by open sea or harbour. The nearest area likely to be affected by any
significant noise is the town of Bluff, approximately two kilometres away to the west across the harbour. Privately owned farmland and isolated residences are located well over three kilometres north-west of the Smelter.

Policy 3 Odour: To accept odour emissions associated with aluminium smelting activities whilst also ensuring the absence of nuisance from objectionable odour.

Explanation: The isolated nature of the Tiwai Point Aluminium Smelter site and its large size mean that odours associated with process can be effectively contained on-site.

Policy 4 Glare: To avoid, remedy or mitigate nuisance from glare.

Explanation: The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.

Policy 5 Electrical Interference: No change

Policy 6 Lightspill: No change

Policy 7 No change

Policy 8 No change

Policy 9 No change

Policy 10 Rehabilitation and re-use of buildings: In the event that Smelter activities are discontinued, to encourage and where possible require the rehabilitation of the site, including removal, maintenance and/or adaptive re-use of buildings. To require that buildings in the Smelter Zone will be well maintained through their service life, and to promote their demolition and replacement, or adaptive re-use, if requirements change.

Explanation: The Smelter is located in the coastal environment, preservation of the natural character of which is a matter of national importance. If requirements change, adaptive re-use or replacement of existing buildings may make best use of the land resource and infrastructure together with addressing any contaminated land issues. Derelict industrial properties and poorly maintained industrial land could significantly detract from the amenities of the neighbouring town.

Policy 11 No change

Policy 12 Connectivity: No change

2.43.4 Methods of Implementation

Methods 1 - 2 No change

Method 3 Identify the anticipated amenity values in and around for the Smelter Zone, include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other local authorities.

Methods 4 - 7 No change
Method 8 Consult with stakeholders who may be affected by the operation of the Smelter, for example landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.

Method 9 No change

3.17 Soils, Minerals and Earthworks

Earthworks and Filling Activities

3.17.1 This Rules 3.17.2 to 3.17.6 do not apply in the Smelter Zone.

3.17.2 et seq: No change

3.41 Smelter Zone

3.41.1 Permitted Activities: The following are permitted activities in the Smelter Zone:

(A) Agriculture other than plantation forestry.
(B) Aluminium smelting.
(C) Business activities associated with aluminium smelting, including administration activities, training activities and professional and personal services.

3.41.2 Non-complying Activities: The following are non-complying activities in the Smelter Zone:

(A) Any other activity not listed as permitted, controlled, restricted discretionary or discretionary

Definitions

Aluminium Smelting: Means the casting and smelting of aluminium, together with those industrial activities providing equipment, product or other inputs to these processes, and includes:

(A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker's accommodation, wharves, stores, roading, parking and/or essential services.
(B) Stockpiles, facilities and structures for the storage, loading and unloading.
(C) The disposal and/or treatment of waste material and effluent associated with the above.
(D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.
(E) Earthworks.
(F) Fire fighting and emergency services associated with aluminium smelting.
PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 23 (A)

Smelter Zone
(Addendum to report 23)

26 January 2015, 9.00am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING

Reporting Officer: Liz Devery
Senior Policy Planner

Peer Reviewed by: Dan Wells
John Edmonds and Associates Limited
TABLE OF CONTENTS

1. Executive Summary .................................................................................................................. 1
2. Introduction .............................................................................................................................. 2
   2.1. Report Author .................................................................................................................. 2
   2.2. Peer Review ..................................................................................................................... 2
   2.3. How to Read this Report ............................................................................................... 2
   2.4. Interpretation .................................................................................................................. 2
   2.5. The Hearing Process ..................................................................................................... 3
3. Background ............................................................................................................................ 4
   3.1. Outstanding submission ................................................................................................. 4
4. Statutory Context / Legislative Requirements ......................................................................... 5
   4.1. New Zealand Coastal Policy Statement ........................................................................ 5
   4.2. Regional Policy Statements ......................................................................................... 5
   4.3. Regional Coastal Policy Statement for Southland ...................................................... 6
5. Analysis of submissions ............................................................................................................ 7
6. Discussion of Section 32 matters ............................................................................................. 8
   6.1. Section 32AA further evaluation .................................................................................. 8
Appendix 1 - Recommendations in response to submissions ............................................... 9
Appendix 2 - Proposed Invercargill City District Planning Maps ........................................ 11
1. EXECUTIVE SUMMARY

A submission point in relation to the Smelter Zone was omitted from Report 23. This supported the Smelter Zoning as identified on the Planning Maps. The boundaries of the Smelter Zone as notified remain as in the Operative District Plan. It is recommended that the boundaries are retained as notified.
2. INTRODUCTION

2.1 Report Author

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

2.2 Peer Review

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

2.3 How to Read this Report

This report is structured as follows:

- Interpretation (an explanation of some of the terms used).
- A summary of the hearing process.
- Background to the Smelter zoning.
- Description of the statutory framework within which the proposed provisions have been developed.
- Analysis of the submission.
- Assessment of the proposed changes under Section 32 of the RMA.
- Concluding comments.
- Recommendations on individual submissions.
- Proposed District Planning Maps showing the location of the Smelter Zone

To see my recommendation on the submission please refer to the table in Appendix 1. The table sets out the name and relevant submission number of those that submitted on the Smelter zoning; 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:

- “AEE” means Assessment of Environmental Effects
- “Council” means the Invercargill City Council
- “FS” means further submitter in Appendix 2
- “Hearing Committee” means the District Plan Hearing Committee
- “ICC” means Invercargill City Council
- “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 collectively describe Objectives, Policies and Rules
- “PSRPS” means the Proposed Southland Regional Policy Statement 2012.
- “RMA” means the Resource Management Act 1991
- “Submitter” means a submitter to the Proposed District Plan.
2.5 The Hearing Process

Several hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been arranged in such a way as to ensure that submissions on similar issues are 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 boundaries of the Smelter Zone as shown on the Proposed District Planning Maps.

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

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the “RMA”). Section 42A provides for a report to be prepared prior to a hearing, setting out matters to which regard should be had 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:
(a) the hearing should be reconvened to allow responses to any report prepared, or
(b) 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, if they wish, may 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 mapping of the Smelter Zone in the Proposed District Plan. The boundaries of the Smelter Zone have remained unchanged from the Smelter Sub-Area boundaries in the Operative District Plan.

The Smelter Zone is a discrete Zone located within a rural environment. It adjoins the Bluff Harbour on Tiwai Peninsula and is located within the Coastal Environment.

The Zone reflects the boundaries of the properties owned by New Zealand Aluminium Smelters Ltd and Comalco NZ Ltd. It comprises of approximately 405ha.

3.1 Outstanding submission

There is one outstanding submission that supports the adjoining Rural 1 Zoning of the land adjoining the Smelter Zone. This submission is not addressed in this report but will be covered in the reports covering the Rural zones.
4. **Statutory Context / Legislative Requirements**

The statutory context and legislative requirements relating to the Smelter Zone have been covered in the s42A Report 23 Smelter Zone. Of particular relevance to the issue raised by the submission point covered by this addendum are the New Zealand Coastal Policy Statement, the Regional Policy Statements and the Regional Coastal Plan for Southland.

4.1 **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.

One of the Objectives from the NZCPS is to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development. This is relevant to the intent of the Smelter Zone.

The concept of 'functional need' as raised in Policy 6 of the NZCPS is also of particular relevance to this submission.

"Policy 5 Activities in the coastal environment

1. In relation to the coastal environment:
   e. consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;

2. Additionally, in relation to the coastal marine area:
   a. recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;
   c. recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;…"

Arguably the Smelter has a functional need for its location, for historic and operational reasons. The submitter is not seeking an extension or change of zoning or extension further into the coastal environment.

There is also some emphasis in the NZCPS promoting public access to the coast. The seaward boundaries of the Smelter Zone are almost completely surrounded by land owned by the Department of Conservation (apart from a section of about 600m). It is my understanding that public access to the coast can be restricted due to operational requirements, however if approached access may be able to be arranged. The submission does not seek to amend the boundaries of the Zone and as such access to the coast will be maintained.

4.2 **Regional Policy Statements**

Under Section 75 of the RMA, a District Plan must give effect to an Operative Regional Policy Statement. Also, in accordance with section 74, regard needs to be given to any proposed Regional Policy Statement.
As stated in the s42A Report 23 Smelter Zone, a number of issues in these policy statement are relevant to the Smelter Zone. The zone is in the coastal environment and also in a zone subject to natural hazard.

The general direction of these documents is that the qualities and attributes of the coastal environment need to be considered in planning for the coast, and that specific provision must be made for activities that have a functional need of a coastal location. There is also some emphasis on access to the coast.

As stated earlier, arguably the Smelter does have a 'functional need' of a coastal location and with the boundaries remaining unaltered, access to the coast will be maintained.

4.3 Regional Coastal Plan

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. The Regional Plan of most relevance to the issue raised in the submission is the Regional Coastal Plan for Southland. The general thrust of the Regional Coastal plan for Southland is that provision be made within the coastal environment for activities which require a coastal location, but that the coastal environment be managed conservatively having careful regard to conservation of its natural values.

The proposed zoning is not inconsistent with the Regional Coastal Plan. The Smelter was in existence and operating lawfully prior to the coastal plan having effect. Also, as stated earlier in this report, and in the s42A Report 23 Smelter Zone, the Smelter arguably has a functional need for its location.
5. ANALYSIS OF THE SUBMISSION

Only one submission point is addressed in this Addendum report: submission 71.69 lodged by NZAS Ltd. The submission supports the zoning of the Smelter Zone as shown on the Planning Maps. There have been no other submissions or further submission points received questioning the extent of the Smelter Zone. The zoning reflects historical zoning of the land. The boundaries reflect the boundaries of the properties owned by New Zealand Aluminium Smelters Ltd and Comalco NZ Ltd. Whilst it is acknowledged that the Smelter has been located in the coastal environment and the development within the Zone has had impacts on the natural character of this environment, for historical and operational reasons the Smelter now has a functional need of this location. Changes to the boundaries of this Zone have not been sought and it is recommended that the identification of the Smelter Zone, as shown on Planning Maps 27, 29 and 31 (included in Appendix 2 of this report) be retained as notified.
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 to examine policies and rules 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 Section 32AA Further Evaluation

It is considered that a s32AA evaluation is not necessary as no changes are recommended in response to this submission point.
### APPENDIX 1 – RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

<table>
<thead>
<tr>
<th>Submitter</th>
<th>Plan Provision/Submission</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PLANNING MAPS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>71.69 NZAS Ltd</td>
<td>Support Planning Maps 27, 29 and 31:</td>
<td>Accept</td>
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<tr>
<td></td>
<td>The submitter supports the Smelter Zone as identified on the Maps.</td>
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<td></td>
<td>RELIEF SOUGHT: Retain the Smelter Zone.</td>
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</table>
<pre><code>              |                                                                                           | RECOMMENDATION:           |
              |                                                                                           | Retain the Smelter Zone as shown on Planning Maps 27, 29 and 31. |
</code></pre>
APPENDIX 2: PROPOSED INVERCARGILL CITY DISTRICT PLANNING MAPS

- Map 27
- Map 29
- Map 31
PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No.24

Introduction

26 January 2015, 9.00 am
COUNCIL CHAMBERS
101 ESK STREET, INVERCARGILL

Reporting Officer:  Liz Devery
SENIOR PLANNER - POLICY

Peer Reviewed by:   Dan Wells
JOHN EDMONDS AND ASSOCIATES LTD
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Executive Summary</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>Introduction</td>
<td>2</td>
</tr>
<tr>
<td>2.1</td>
<td>Report Author</td>
<td>2</td>
</tr>
<tr>
<td>2.2</td>
<td>Peer Review</td>
<td>2</td>
</tr>
<tr>
<td>2.3</td>
<td>How to read this report</td>
<td>2</td>
</tr>
<tr>
<td>2.4</td>
<td>Interpretation</td>
<td>2</td>
</tr>
<tr>
<td>2.5</td>
<td>The Hearing Process</td>
<td>3</td>
</tr>
<tr>
<td>3.</td>
<td>Background</td>
<td>5</td>
</tr>
<tr>
<td>4.</td>
<td>Statutory Context / Legislative Requirements</td>
<td>6</td>
</tr>
<tr>
<td>5.</td>
<td>Analysis of submissions</td>
<td>7</td>
</tr>
<tr>
<td>5.1</td>
<td>Precautionary approach</td>
<td>7</td>
</tr>
<tr>
<td>6.</td>
<td>Discussion of Section 32 matters</td>
<td>8</td>
</tr>
<tr>
<td>7.</td>
<td>Concluding comments</td>
<td>9</td>
</tr>
<tr>
<td>Appendix 1:</td>
<td>Recommendations on Submissions</td>
<td>11</td>
</tr>
<tr>
<td>Appendix 2:</td>
<td>Recommended Changes to the Proposed District Plan</td>
<td>15</td>
</tr>
</tbody>
</table>

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Section 42A Report
Introduction

January 2015
1. EXECUTIVE SUMMARY

The Introduction section provides an overview of the Proposed Invercargill City District Plan and an explanation of what the Proposed District Plan is. The purpose of the legislation under which the Proposed District Plan is formulated, the Resource Management Act 1991 is outlined with explanation of the Proposed District Plan's relationship with other policies and plans, and the Treaty of Waitangi. The Introduction also includes an explanation of how the Proposed District Plan and Proposed Planning Maps work.

Whilst this section of the Proposed Plan is not required under legislation, it is intended that this section of the Proposed Plan sets the scene for the Plan User.

The submissions received on this section of the Proposed Plan are largely seeking minor amendments to "inaccuracies" in terminology used. It is recommended in this report that these minor amendments be made.

The one issue raised that is discussed in greater detail in this report is the questioning of the "precautionary approach" used in the Proposed District Plan. This approach is, however, supported in this report.

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

2.1 Report Author

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

2.2 Peer Review

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

2.3 How to Read this Report

This report is structured as follows:

- Interpretation (an explanation of some of the terms used).
- Summary of the Hearing process.
- Background to Section One Introduction.
- 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 32AA of the RMA.
- Concluding comments.
- Appendix 1 detailing recommendations on individual submissions.
- Appendix 2 detailing the recommended changes to Section One Introduction of the Proposed District Plan.

To see recommendations 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 the Introduction; 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 established by the Council under the Local Government Act
“FS” means further submission
“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 Hearings Committee to make decisions on the provisions relating to those issues. This report applies to the Tangata Whenua 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 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 having heard from the submitters and Council advisers.

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

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

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

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

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

The Introduction section provides an overview of the Proposed Invercargill City District Plan and an explanation of what the Proposed District Plan is. The purpose of the legislation under which the Proposed District Plan is formulated, the Resource Management Act 1991 is outlined with explanation of the Proposed District Plan's relationship with other policies and plans and the Treaty of Waitangi. The Introduction also includes an explanation of how the Proposed District Plan and Proposed Planning Maps work.

Whilst this section of the Proposed Plan is not required under legislation, it is intended that this section of the Proposed Plan sets the scene for the Plan User.

The Introduction is similar to the introductory section in the Operative District Plan.
4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

In reviewing the District Plan, the Council must follow the process outlined in Schedule 1 of the RMA. The Introduction seeks to set out how the RMA obligations have been addressed in the Proposed District Plan. This includes discussion on the purpose of the RMA, the relationship with other plans and policies developed under the RMA, the relationship with Iwi and the Treaty of Waitangi, and other documents.
5. ANALYSIS OF SUBMISSIONS

Seven points of submission have been lodged commenting on, supporting and suggesting amendments to the Introduction plus one further submission. These submissions are summarised in table format, along with recommended responses, in Appendix 1 to this report.

In general, the submissions are supportive of the approach adopted in the Proposed District plan. The changes sought in the submissions relate mainly to minor details including amendments to ‘inaccuracies’ in terminology used. Overall, I do agree with the submitters that the document could be improved by minor amendments.

The one further submission questions the overall approach of the Proposed District Plan and it is considered that some discussion on this is important.

5.1 Precautionary approach

Environment Southland (submission number 18.5) has supported the reference in the Introduction to using a precautionary approach where there is less than complete scientific knowledge if the possible effects “could potentially be severely adverse” (section 1.4, paragraph 5). Federated Farmers lodged a further submission (submission number FS4.4) opposing this submission. I agree with the further submitter that there may be situations where complete scientific information may not ever be available, although knowledge is continually evolving. However, I believe the statement and approach is balanced and sensible in the context of the complete paragraph. The approach is also consistent, in my opinion, with the approach promoted by the RMA.

It is worth noting that the definition of “effect” in Section 3 of the RMA includes:

“(f) Any potential effect of low probability which has a high potential impact”

The precautionary approach is also promoted in Policy 3 of the NZCPS:

“Policy 3

1. Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.

2. In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:
   a. avoidable social and economic loss and harm to communities does not occur;
   b. natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and
   c. the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.

The use of a precautionary approach to natural hazards is also promoted in the Quality Planning website in relation to natural hazards.

It is my opinion that the precautionary approach is appropriate and should be promoted through the District Plan.
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 the Introduction 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 Introduction section of the Plan is not a requirement under the RMA but is included to “set the scene” and put the Proposed District Plan in the wider RMA context. The Introduction also sets out the layout of the planning document.

Submission points in relation to this part of the Proposed District Plan have identified a number of minor inaccuracies that it is recommended be corrected.

The precautionary approach adopted in the Proposed District Plan, whilst supported by a submitter, was questioned by another. It is recommended that this approach is sensible and appropriate in the context of the RMA.

Given that this part of the District Plan is not a requirement under the RMA and will not affect the provisions, it is considered that there is no need or requirement to carry out a Section 32AA evaluation of the suggested changes.
### APPENDIX 1 - Recommendations in response to submissions

<table>
<thead>
<tr>
<th>Submitter</th>
<th>Submission</th>
<th>Recommendation</th>
</tr>
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<tbody>
<tr>
<td><strong>1.2 Relationship with other Plans under the RMA</strong></td>
<td></td>
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<tr>
<td>18.2 Environment Southland</td>
<td>Oppose in part 1.2</td>
<td>Accept</td>
</tr>
<tr>
<td></td>
<td>The numbering 1.2. (C) is duplicated</td>
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<tr>
<td></td>
<td>RELIEF SOUGHT:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Amend numbering to 1.2.(A) to 1.2.(E)</td>
<td></td>
</tr>
<tr>
<td>18.3 Environment Southland</td>
<td>Oppose in part 1.2 (C) and (D)</td>
<td>Accept</td>
</tr>
<tr>
<td></td>
<td>The submitter considers that there is no need to add “prepared by Environment Southland” to “The Regional Policy Statement for Southland” and “Regional Plans”. If it is considered that these words must be there, similar words should be added (A) to (C)</td>
<td></td>
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<tr>
<td></td>
<td>RELIEF SOUGHT:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Delete “prepared by Environment Southland” from (D) and (E).</td>
<td></td>
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<tr>
<td>18.4 Environment Southland</td>
<td>Oppose in part 1.2</td>
<td>Accept</td>
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<tr>
<td></td>
<td>The submitter notes that Section 1.2 says that the District Plan &quot;gives effect to&quot; various instruments, including Regional Plans.</td>
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<td></td>
<td>The submitter points out that Section 75(4) of the Resource Management Act 1991 provides that a District Plan must &quot;not be inconsistent with&quot; a regional plan or a water conservation order.</td>
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<tr>
<td></td>
<td>RELIEF SOUGHT:</td>
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<td></td>
<td>Amend Section 1.2 as follows:</td>
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<td></td>
<td>&quot;The District Plan gives effect to:</td>
<td></td>
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<td></td>
<td>(A) National Policy Statements.</td>
<td></td>
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<tr>
<td>Submitter</td>
<td>Submission</td>
<td>Recommendation</td>
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<td>-------------------------------------------------------------------------------</td>
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<tr>
<td>(B) The New Zealand Coastal Policy Statement.</td>
<td>(C) National Environmental Standards.</td>
<td>(G) The Regional Policy Statement for Southland, prepared by Environment Southland.</td>
</tr>
<tr>
<td>(C) National Environmental Standards.</td>
<td>(D) Regional Plans prepared by Environment Southland.</td>
<td>(D) Regional Plans prepared by Environment Southland.</td>
</tr>
<tr>
<td>(C) The Regional Policy Statement for Southland, prepared by Environment Southland.</td>
<td>The District Plan must not be inconsistent with—</td>
<td>The District Plan must not be inconsistent with—</td>
</tr>
<tr>
<td>(D) Regional Plans prepared by Environment Southland.</td>
<td>(A) a water conservation order; or</td>
<td>(A) a water conservation order; or</td>
</tr>
<tr>
<td></td>
<td>(B) a regional plan for any matter specified in Section 30(1) of the Resource Management Act 1991.&quot;</td>
<td>(B) a regional plan for any matter specified in Section 30(1) of the Resource Management Act 1991.&quot;</td>
</tr>
</tbody>
</table>

### 1.4 Regulatory Framework

#### 18.5 Environment Southland

Support 1.4, paragraph 5.

The submitter supports the adoption of a precautionary approach where there is less than complete scientific knowledge.

RELIEF SOUGHT:

Retain as proposed.

FS4.4 Federated Farmers  
**Oppose submission 18.5**

The further submitter considers that there is seldom complete scientific information available on any topic and that it is important that Council does not hamper land use or development knowledge is incomplete.

Accept

The Introduction states that a precautionary approach is used in the Proposed District Plan where there is less than complete scientific knowledge if the possible effects “could potentially be severely adverse” (section 1.4, paragraph 5). This approach is consistent with the RMA. (See discussion in section 5.1 of this report.)

I agree that there may be situations where complete scientific information may not ever be available, although knowledge is continually evolving. I believe the statement and approach is appropriate, balanced and sensible.

RECOMMENDATION:  
Retain 1.4 paragraph 5 as notified.
<table>
<thead>
<tr>
<th>Submitter</th>
<th>Submission</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>79.2 KiwiRail Holdings Ltd</strong></td>
<td>Oppose in part page 1-2 paragraph 3. The submitter considers that the Councils obligations under the RMA in relation to reverse sensitivity effects should be expressly stated. RELIEF SOUGHT: Amend the second paragraph on page 1-2 to read: &quot;... The Council is required, as a territorial authority, to control the adverse effects of inappropriate subdivision, use and development of land, including reverse sensitivity effects...&quot;</td>
<td>Reject The provisions throughout the Proposed District Plan make numerous references to the consideration of reverse sensitivity effects. There are also numerous other effects that the Proposed District Plan seeks to control which are not specifically referred to in the Introduction section of the Plan. It is not considered necessary to refer in this context to all different adverse effects that the Proposed District Plan seeks to address and, whilst important, reverse sensitivity effects are not given specific priority.</td>
</tr>
</tbody>
</table>

**1.5 Cross Boundary Issues**

<p>| <strong>18.6 Environment Southland</strong> | Oppose in part 1.5, paragraph 1 The submitter considers that the statement that &quot;The Invercargill city district also adjoins the coastal marine area (CMA) ...&quot; is incorrect. The Invercargill city district boundary is mean low water mark. Therefore the district &quot;contains&quot; much of the CMA rather than &quot;adjoins&quot; it. RELIEF SOUGHT: Amend: &quot;The Invercargill city district also adjoins the coastal marine area ...&quot; to read: &quot;The Invercargill city district also contains large parts of the coastal marine area (estuaries, harbours and open coast foreshores) which is the jurisdiction of Environment Southland and the Minister of Conservation for RMA matters.&quot; | Accept It is acknowledged that the statement is inaccurate and can be amended to reflect the actual relationship without significant effects on the Proposed District Plan. RECOMMENDATION: Amend: &quot;The Invercargill city district also adjoins contains large parts of the coastal marine area (estuaries, harbours and open coast foreshores) which is the jurisdiction of Environment Southland and the Minister of Conservation for RMA matters.&quot; |</p>
<table>
<thead>
<tr>
<th>1.6 Contents of the District Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>65.1</strong></td>
</tr>
<tr>
<td>ICC - Environmental and Planning</td>
</tr>
<tr>
<td>Services</td>
</tr>
<tr>
<td>Oppose in part 1.6, paragraph 8.</td>
</tr>
<tr>
<td>The term “management area” is not used elsewhere in the Plan and could be confusing for the Plan user.</td>
</tr>
<tr>
<td>RELIEF SOUGHT:</td>
</tr>
<tr>
<td>Amend 1.6 to read:</td>
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<tr>
<td>“… The District Planning Maps identify the specific zone for each parcel of land within the district ...”</td>
</tr>
<tr>
<td>Accept</td>
</tr>
<tr>
<td>It is considered that the suggested amendment more accurately sets out the approach taken in the Proposed District Plan.</td>
</tr>
<tr>
<td>RECOMMENDATION:</td>
</tr>
<tr>
<td>Amend 1.6 paragraph 8 to read:</td>
</tr>
<tr>
<td>“… The District Planning Maps identify the management area which applies to specific zone for each parcel of land within the district ...”</td>
</tr>
</tbody>
</table>
APPENDIX 2 - Recommended Changes to the Proposed District Plan

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

SECTION ONE - Introduction

1.1 The Resource Management Act 1991 – No change

1.2 Relationship With Other Plans Under The Resource Management Act 1991

The District Plan gives effect to:

(A) National Policy Statements.
(B) The New Zealand Coastal Policy Statement.
(C) National Environmental Standards.
(D) The Regional Policy Statement for Southland, prepared by Environment Southland.

The District Plan must not be inconsistent with—

(A) A water conservation order; or

(B) A regional plan for any matter specified in Section 30(1) of the Resource Management Act 1991.

1.3 Relationship With Iwi And The Treaty of Waitangi – No change

1.4 Regulatory Framework – No change

1.5 Cross Boundary Issues

The Invercargill city district is adjacent to the Southland district and is within the jurisdiction of Environment Southland. The Invercargill city district also adjoins contains large parts of the coastal marine area (estuaries, harbours and open coast foreshores) which is the jurisdiction of Environment Southland and the Minister of Conservation for RMA matters. A number of issues affect more than one local authority.

Applicants who require resource consents from more than one organisation will be encouraged to make their applications simultaneously, to enable the application to be assessed jointly as a whole where possible. The Council will
encourage other authorities to do the same. The RMA sets out occasions when applications must be considered together.

The Council has adopted procedures for joint hearings involving other local authorities in Southland.

Where an application for a resource consent may adversely affect those in the Southland District, the Council will require that these people be notified of the application unless they have given their written approval.

Where possible, non-regulatory methods may be undertaken in conjunction with other local authorities. For example, it may be more efficient and economical, in terms of staff, time and costs, to undertake or commission monitoring or research in co-operation with adjoining councils.

1.6 Contents of the District Plan

The RMA states that no person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council. In addition no person may subdivide land in the district unless expressly allowed by a rule in the District Plan or resource consent.

The District Plan includes the matters prescribed in Section 75 of the RMA. It gives effect to all relevant National Policy Statements, the New Zealand Coastal Policy Statement and the Regional Policy Statement.

The layout for the District Plan is based on cascading logic.

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.

The rules are stated in detail in Section Three. Rules establish minimum environmental standards that can be enforced. The rules, like Section 2, 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.

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

Section Five contains the Appendices to the District Plan.

The District Planning Maps identify the management area which applies to specific zone for each parcel of land within the district. The maps also show other important information such as designations, heritage features,
significant areas of indigenous biodiversity, the coastal environment, and hazard information.

It is recommended that anyone proposing a subdivision and/or land use activity within the District discuss the proposal in the early stages with the Council’s resource management staff to identify whether a resource consent is required and, if so, what issues will need to be addressed.

1.7 Regional Rules – No change