



## **PROPOSED INVERCARGILL CITY DISTRICT PLAN**

**Decision No. 10**

**Public Open Space**

### **Hearings Committee**

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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## **INTRODUCTION**

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this decision we consider the submissions lodged in relation to Public Open Space.

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are Sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Report prepared for the Committee considered these matters in detail and we have had regard to those matters. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

"The Council" means the Invercargill City Council.

"FS" means Further Submission.

"Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

"Hearings Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

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

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

"RMA" means the Resource Management Act 1991.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

## **THE HEARING**

The hearing to consider the submissions lodged to the matters set out in this decision was held in the Drawing Room of the Civic Theatre on 10 June 2014.

### **Section 42A Report**

The Hearings Committee received a report from Joanna Shirley, Policy Planner with the Invercargill City Council. In her report, Mrs Shirley outlined that Invercargill City District has 161 parks comprising a total land area of 3,016 hectares. Most of the significant areas of public open space are vested or gazetted under the Reserves Act 1977 as Reserves and are owned and managed by the Council or by the Department of Conservation. Public open space land that does not hold Reserves Act status is generally fee simple, awaiting Council completion of the formal gazetting process. Esplanade and access strips are also a form of public open space providing access and recreation opportunities along riparian and coastal margins.

Mrs Shirley noted that 16 submission points were received on the matter of public open space. Of these submissions one was in support, three requested changes and 12 raised matters outside of the RMA.

The key recommendation in the Section 42A Report was to amend the District Planning Maps to show all Council Park and Reserve Land. In response to questions from the Committee Mrs Shirley acknowledged that there was a need to check the list prior to finalising the District Planning Maps. She also advised that the intention was to only show land owned by the Invercargill City Council or managed by the Council on behalf of the Department of Conservation. In her view, other land owned by the Crown or Environment Southland should not be shown on the District Planning Maps.

### **Submitters Attending the Hearing**

#### Invercargill City Council Parks Division

Mr Robin Pagan, Parks Manager at the Invercargill City Council, appeared at the hearing. In response to questions he indicated that the District Planning Maps did not clearly show the location of the Council's reserves, and he considered that since it was a public document it should be easily understood.

### **Material Tabled at the Hearing**

No material was presented at the hearing.

## **MATTERS REQUIRING PARTICULAR CONSIDERATION**

### **Showing Reserves on the Planning Maps**

Mrs Shirley in her Section 42A Report, in response to Submissions 65.127 by the Invercargill City Council Environmental and Planning Services and 68.1 from the Invercargill City Council Parks Division recommended that the District Planning Maps be amended to include all Council Park and Reserve land and for the legend to be amended in order to make it more visible. In making that recommendation she considered it important to provide clear and accurate identification of parks and reserves to ensure their continued enjoyment and management.

At the hearing, discussion took place on this matter with Mrs Shirley, Robin Pagan, the Council's Parks Manager, and the Hearings Committee. It was clarified that the intent was to only show land owned by the Invercargill City Council or managed by the Council on behalf of the Department of Conservation. Mrs Shirley advised that other land owned by the Crown or Environment Southland was not intended to be shown on the District Planning Maps.

The Hearings Committee noted that under Rule 3.14.1 where an activity is provided for in a Reserve Management Plan approved by the Minister of Conservation it is able to be undertaken without the need for resource consent approval under the RMA. That applies regardless of the ownership of the land, and the management agency. As a consequence, and having regard to Submission 55.1 by Irene Schroder, the Hearings Committee concluded that all land held under the Reserves Act 1977 for which there is an approved Management Plan should be shown on the District Planning Maps, regardless of ownership and administrative responsibility. Parks and reserves are enjoyed by the public regardless of these variables, and for consistency the Committee considered they should all be shown.

Submissions 55.1 by Irene Schroder and 50.1 by Dorothy Gilbert both requested that Urupa be shown on the District Planning Maps. Urupa are located at Mason Road and

Omaui. As these are not held under the Reserves Act 1977 or required to have a reserve management plan; rather being in freehold title, separate identification on the District Planning Maps is not appropriate. The Committee considers that this is consistent with the way in which other private and Council owned land is to be dealt with in the Proposed Plan. For the purposes of applying the Public Open Space rule, land held by the Council under the Reserves Act 1977 with an approved management plan is to be shown on the District Planning Maps. Other Council land is not.

### **Minor Changes**

Mrs Shirley also recommended a minor change to the heading of Business 2 Policy 15 and correction of a spelling error in the definition of public open space. She considered that these are minor amendments that will result in no consequence to the intention and outcome of the provisions. The Hearings Committee agreed that the effects of the amendments are so minor that the amendments can be made at this stage under Clause 16 (2) of the First Schedule to the RMA.

## **SECTION 32 MATTERS**

### **Requirements**

The Committee was advised by Mrs Shirley that Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan, and that a Report was released at the time of notification of the Proposed Plan in compliance with those provisions. The Committee was also advised that 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, with the detail of the assessment corresponding with the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the changes made to the Proposed Plan.

As the Committee understands its obligations, it is required to:

- (i) Assess any changes made to objectives to determine whether they are the most appropriate way to achieve the purpose of the RMA.
- (ii) Examine any changes made to the policies and rules to determine whether they are the most appropriate way to achieve the objectives of the Proposed Plan. This includes:
  - Identifying 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)
  - Identifying other reasonably practicable options for achieving the objectives; and
  - Assessing the efficiency and effectiveness of the provisions in achieving the objectives.

The Committee however, is not required to assess in accordance with Section 32 of the RMA any changes to the issues and or explanatory text of provisions.

### **Assessment**

As a consequence of this Decision:

- (i) The District Planning Maps are being amended to identify reserves held under the

Reserves Act 1977 for which there are approved Management Plans; and

- (ii) Minor changes are being made to the Introduction in Section 2.12 Public Open Space to refer to Environment Southland and the Crown as owners of public open space within the district.

Identifying all reserves held under the Reserves Act 1977 with Reserve Management Plans on the District Planning Maps will ensure that the Plan documents are user friendly and will enable the easy identification of such land. Information on reserves without Reserve Management Plans will be otherwise available to the public and Plan Users.

Mrs Shirley advised the Hearing Committee:

*The Public Open Space section of the original Section 32 report is relevant to this report. The changes proposed are within the scope of the original evaluation findings and do not raise any additional matters of consideration.*

The Committee agrees with that approach and adopts it.

Dated at Invercargill this 11<sup>th</sup> day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface



Councillor Graham Sycamore



Keith Hovell



## APPENDIX 1 - Decisions on Submissions

SUBMISSION	DECISION
<b>GENERAL</b>	
<p><b>56.27 - Jenny Campbell</b> The submitter suggests more walkways and cycleways should be developed for leisure and promoting healthy living.</p> <p><b>56.30 - Jenny Campbell</b> The submitter would like to see the use of more bee friendly plants in the Parks and Reserves, as well as more wetland habitats. The submitter also suggests using Parks and Reserves land as community vegetable gardens and modelling various pest control and organic gardening methods.</p>	<p><b>Decision 10/1</b> These submissions are noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><b>Reasons</b></p> <ol style="list-style-type: none"> <li>1. The matters raised relate to the Council's operations and are beyond the scope of what can be considered in the District Plan.</li> <li>2. Other provisions in the Proposed Plan, including subdivision, require consideration to be given to promoting walking and cycling as alternative modes of transport.</li> <li>3. It is more appropriate to consider use of bee friendly plants and community use of reserves through the Annual Plan Process.</li> </ol>
<p><b>77.36 - Te Runaka o Waihopai and Te Runaka o Awarua</b> The submitter considers that Health Impact Assessments would be a useful tool if considering the rationalisation of reserves.</p> <p><b>117.13 - Southern District Health Board</b> The submitter is concerned that the rationalisation of areas of public open space should involve public consultation and ideally the use of Health Impact Assessment.</p>	<p><b>Decision 10/2</b> These submissions are noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><b>Reasons</b></p> <ol style="list-style-type: none"> <li>1. It is agreed that Health Impact Assessments are a useful tool in assessing the community's need for reserves.</li> <li>2. The matter raised relates to the Council's operations and is beyond the scope of what can be considered in the District Plan.</li> </ol>
<p><b>43. - John Mulholland</b> The submitter is opposed to the sale of the Omaui Reserve. Council should reverse its decision to sell the Omaui Reserve and the plans for subdivision of the Omaui Reserve and give the local populace a greater consultation in this process.</p> <p><b>37.1 - Karen Cox</b> The submitter is opposed to the sale of all Council reserves, including</p>	<p><b>Decision 10/3</b> The submissions are noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><b>Reasons</b></p> <ol style="list-style-type: none"> <li>1. The matter raised relates to the Council's operations and is beyond the</li> </ol>

## APPENDIX 1 - Decisions on Submissions

SUBMISSION	DECISION
<p>Mokomoko Road and considers that these areas should be replanted with native bush and protected now for the benefit of future generations.</p> <p><b>38.1 - Nicole Edwards, 39.1 - Sean Edwards and 40.1 - Jacinta Hamilton</b> The submitter does not wish to see any of Omaui's Council reserves sold off and believes that they should remain native bush for the wildlife of Omaui.</p> <p><b>42.1 - Stephen Morris</b> The submitter is opposed to the selling off the Mokomoko Road Reserve and believes it should be replanted for the benefit of future generations and Omaui's biodiversity. Return of the reserve to its native condition.</p> <p><b>50.1 - Dorothy Gilbert</b> The submitter is against the sale of reserves and requests that the Omaui Urupa be marked on the Council Planning Maps.</p>	<p>scope of what can be considered in the District Plan.</p> <ol style="list-style-type: none"> <li>2. The District Plan does not identify land the Council may consider for disposal.</li> <li>3. The sale of reserve land is a matter dealt with under the Reserves Act 1977 and the planting of native vegetation is a matter covered by the Management Plan process.</li> <li>4. As discussed on page 2 of this Decision, and as a consequence of Decision 10/6, where land is held as reserve under the Reserves Act 1977 and has an approved reserve management plan, it will be shown on the District Planning Maps. The Omaui Urupa is not held under the Reserves Act and it is not appropriate to include it on the maps.</li> </ol>
<b>SECTION 2.12 PUBLIC OPEN SPACE</b>	
<p><b>117.12 - Southern District Health Board</b> Supports the Issues, Objectives, Policies and Rules in general, in particular Objectives 1 and 2. The submitter supports encouraging physical activity in planning and managing the use of public space.</p>	<p><b>Decision 10/4</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><b>Reason</b> The submitter supports the plan provisions and does not seek any change to them.</p>
<p><b>18.75 - Environment Southland</b> The submitter points out that they own significant areas of land adjoining rivers that is made available for public recreation.</p> <p><u>Decision Sought</u>: Amend the third paragraph of the Introduction to read: "... by the Council, <u>Environment Southland</u> or by the Department of Conservation ..."</p>	<p><b>Decision 10/5</b> This submission is accepted.</p> <p><b>Amendments to District Plan</b> Amend the third paragraph of the Introduction to read: "... by the Council, <u>Environment Southland</u> or by the Department of Conservation ..."</p> <p><b>Reason</b> The addition recognises an existing situation.</p>

## APPENDIX 1 - Decisions on Submissions

SUBMISSION	DECISION
<b>DISTRICT PLAN MAPS</b>	
<p><b>65.127 - ICC Environmental and Planning Services</b> The submitter notes that the mapping of the Council Parks and Reserves is incomplete and inaccurate. Review the data used to map the Parks and Reserves on the Planning Maps and amend maps where necessary.</p> <p><b>68.1 - ICC Parks Division</b> The submitter is concerned that the mapping of the Council Parks and Reserves is incomplete and inaccurate and lists all areas that should be shown on the Planning Maps. Amend the Planning Maps by showing all parks and reserves clearly as per the list provided.</p> <p><b>55.1 - Irene Schroder</b> District Plans should show all land uses. This includes parks and reserves and especially cultural sections like the Urupa. To exclude these from your plans is misleading and inaccurate.</p> <p><u>Decision Sought:</u> That all parks and reserves and special purpose land (e.g. Urupa) be shown on all maps, including draft plans.</p>	<p><b>Decision 10/6</b> These submissions are accepted in part.</p> <p><b>Amendments to District Plan</b> Include on the District Planning Maps all reserves held under the Reserves Act 1977 which have an approved management plan, regardless of ownership.</p> <p><b>Reasons</b></p> <ol style="list-style-type: none"> <li>1. As discussed on page 2 of this Decision and having regard to Rule 3.14.1 it is appropriate to show all reserves held under the Reserves Act 1977 that have an approved reserve management plan on the District Planning Maps.</li> <li>2. It is not practical to show all land uses on the District Planning Maps, as this changes frequently over time.</li> <li>3. The Omaui Urupa is held under freehold title and its inclusion on the District Planning Maps is not appropriate.</li> </ol>

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## SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

### 2.12 Public Open Space

#### Introduction

The Invercargill City District is well endowed with public open space. Within the urban area, public open space in the form of the Town Belt forms a structuring element within the original “grid” town plan. Further significant open spaces have been created as part of river flood protection works.

Outside the urban area, large areas of reserve (e.g. Sandy Point) accommodate a multitude of recreational facilities and opportunities and are valued features of the Invercargill City District.

Most of these significant areas of public open space are reserves, owned and managed by the Council, Environment Southland<sup>1</sup> or by the Department of Conservation, and with classifications according to their purpose under the Reserves Act 1977.

When large, new developments (especially buildings) are proposed on a reserve, there needs to be opportunities for public consultation either under the Reserves Act 1977 or under the RMA.

#### 2.12.2 Objectives

**Objective 1:** Invercargill’s public open spaces are maintained as open spaces in accordance with their classification under the Reserves Act 1977.

**Objective 2:** The effects of developments on Invercargill’s public open spaces are identified, understood by the community, and taken into account in deciding whether to allow such developments to take place.

#### 2.12.3 Policies

**Policy 1 Reserve Management Plans:** To enable developments on reserves where these developments are incorporated into a Reserve Management Plan.

***Explanation:** The management plan processes under the Reserves Act 1977 provide for full community consultation regarding development proposals on reserves, and require that the effects of development proposals be considered in the context of the reserve. There is no need to duplicate this process under the RMA.*

**Policy 2 RMA:** Where developments are proposed on reserves and where they are not incorporated into a management plan, to require that these developments be assessed under the RMA.

***Explanation:** Developments – particularly where they involve large buildings or groupings of activities – can have significant effects on the appearance of the public open space and on the amenities of residential properties nearby. Where such developments are proposed and they have not been incorporated into a*

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<sup>1</sup> Decision 10/5

## APPENDIX 2 - Amended District Plan Provisions

*formal management plan, it is appropriate that they be subject to the community consultation and assessment processes of the RMA.*

### 2.12.4 Methods of Implementation

**Method 1** Delineating the district's Parks and Reserves on the District Planning Maps.

**Method 2** Rules requiring resource consent for development not incorporated into a management plan.

## 2.23 Business 2 (Suburban Shopping and Business) Zone

### 2.23.2 Policies

**Policy 15 Public<sup>2</sup> Open Space:** To promote the provision of opportunities for the public to use and enjoy the Business 2 Zone.

## SECTION FOUR DEFINITIONS

**Public Open Space:** Means any open space<sup>3</sup> maintained for the benefit of the public pursuant to an Act of Parliament.

## DISTRICT PLANNING MAPS

Include all reserves held under the Reserves Act 1977 for which there is an approved management plan on the District Planning Maps.<sup>4</sup>

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<sup>2</sup> Minor amendment made under Clause 16(2) of the RMA First Schedule

<sup>3</sup> Minor amendment made under Clause 16(2) of the RMA First Schedule

<sup>4</sup> Decision 10/6

Note: Underline indicates additions, strikethrough indicates deletions.