



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 14

Formatting

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 "formatting".

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" or "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 Council Chambers of the Invercargill City Council on 25 August 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 described the structure of the Proposed Plan which has been separated into five sections; Section One Introduction; Section Two Issues, Objectives and Policies; Section Three Rules; Section Four Definitions; and Section Five Appendices. She highlighted that the provisions in Sections Two and Three are framed around two key sections: District wide provisions and zone specific provisions. She indicated that the District wide provisions cover general matters applicable to the whole District, and the Zone specific provisions provide opportunities for activities which are in keeping with the character and amenity sought for each area.

Mrs Shirley referred to eight submissions that were received on the format of the Proposed District Plan. These raised concerns with its usability and layout, suggesting this could be

improved by including cross referencing, restructuring, changing some zone policies to District wide policies, and by amending the provision headings.

Mrs Shirley recommended some minor layout changes to the Proposed Plan and the inclusion of two additions to assist those using the Plan.

Submitters Attending the Hearing

No submitters attended the hearing.

Material Tabled at the Hearing

No material was tabled at the hearing.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Cross-Referencing

Submission 53.1 NZ Transport Agency comments that the linkages between issues, objectives and policies are not clear and providing cross referencing would assist. Mrs Shirley in her Section 42A Report highlighted that the District Plan contains objectives, policies and rules divided into District wide provisions and Zone specific provisions, both of which need to be referred to in considering any new activity. She acknowledged that in some instances cross referencing can be helpful but it can also result in omissions and make the document feel overly legalistic. She then described that the way in which the Plan is drafted means that the objectives and policies apply to multiple rules and therefore full consideration needs to be given to all of the District wide objectives and policies as well as the Zone objectives and policies specific to the site.

Mrs Shirley concluded the Proposed Plan has clear logic and flow and that would not be assisted by including cross-referencing. The Committee agreed, noting that the Council has various pamphlets and other guidance material to assist plan users that sit outside of the Plan. The Committee also noted that search options on electronic copies of the document enable ready location of the provisions on particular matters, and such search capabilities are likely to be enhanced over time.

Mrs Shirley did however agree that there was merit in including additional comment in Section 2.1 (Introduction Issues Objectives and Policies) and Section Three (Rules) outlining how the provisions should be read and applied to an activity. The Committee agreed with this approach.

SECTION 32 MATTERS

The Committee was advised by Mrs Shirley that:

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

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

The Committee agreed with Mrs Shirley in this regard.

Dated at Invercargill this 11th day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface



Councillor Graham Sycamore



Keith Hovell

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APPENDIX 1 – Decisions by Submission

SUBMISSION	DECISION
LAYOUT	
<p>34.1(A) - Silver Fern Farms Ltd The submitter is generally supportive of the Proposed District Plan as it provides a clear direction in an easy to navigate format.</p> <p>18.89 - Environment Southland The submitter considers the numbering of Section 3 to be confusing, commenting that the numbering system seems to be a mixture of rule numbering and paragraph numbering. They comment that this results in parts of rules having separate numbers to the primary rule statement, for example Rule 3.9.10 and Rule 3.9.11. They further comment that a similar issue arises from the separation of the Rule statement from the “matters which will be among those taken into account”, especially where there is only one rule that the “matters” apply to (for example Rule 3.9.5 and 3.9.6).</p> <p><u>Decision Sought:</u> Consider reformatting the numbering/structuring of the Rule statements and supporting clauses.</p>	<p>Decision 14/1 Submission 34.1(A) Silver Fern Farms Ltd is noted. Submission 18.89 Environment Southland is accepted.</p> <p>Amendments to District Plan Upon finalising the District Plan Section 3 be renumbered so as to avoid confusion between the rules, notes, and assessment matters.¹</p> <p>Reason The current numbering creates some confusion.</p>
<p>65.44, 65.103, 65.104 - ICC Environmental and Planning Services The submitter notes that there is some inconsistency between headings and wording of the policies for the different zones and that in many cases these differences are not necessary and could be tidied up, e.g. demolition v demolition and removal. The submitter raises the same issue with the sub-headings of the rules.</p> <p><u>Decision Sought:</u> Tidy up headings to ensure consistency between Zones where this is possible.</p> <p>65.89 - ICC Environmental and Planning Services The submitter notes that the sections within Section 3 Rules should be in alphabetical order. Ensure that the sections are in alphabetical order – e.g. Lightspill should be before Natural Features.</p>	<p>Decision 14/2 These submissions are accepted.</p> <p>Amendments to District Plan Upon finalising the District Plan heading inconsistencies will be corrected and sections placed in alphabetical order.¹</p> <p>Reason The changes will improve the readability of the Plan.</p>

¹ It should be noted that as there is no impact on any objective, policy or rule, changes to headings and the order and numbering of provisions in the Proposed Plan can be made under Clause 16(2) of the First Schedule of the RMA. As a consequence, no changes are shown in the amended District Plan provisions attached to the Decisions.

APPENDIX 1 – Decisions by Submission

SUBMISSION	DECISION
<p>88.2 - Federated Farmers The submitter holds concerns with the usability of the plan in its current format and considers a considerably more user-friendly layout would be to have the rules for each chapter accompanying the issues, objectives, policies and methods for that topic, ensuring plan users can easily ascertain what their responsibilities in a certain area are, and leading to greater plan compliance.</p>	<p>Decision 14/3 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason Adopting the approach suggested would require repetition of various provisions, including rules, as various objectives, policies and methods apply to multiple rules.</p> <p>It should be noted that through Decision 14/5 additions have been made to Sections 2.1 and 3 to provide guidance to plan users and assist in understanding the various provisions applying to individual properties.</p>
<p>117.1 - Southern District Health Board Commend the Council for presenting a well set out and easy to follow document. However, believe it would be useful to have a statement explaining the rationale as to why the format has changed.</p> <p><u>Decision Sought:</u> Provide a statement explaining the rationale as to why the format of the District Plan has changed.</p>	<p>Decision 14/4 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason The RMA has reduced the provisions required to be included in district plans. It is not necessary to outline this in the Proposed Plan.</p>
CROSS-REFERENCING	
<p>53.1 - NZ Transport Agency The submitter supports the outcomes promoted through the Proposed Plan but notes that some linkages between issues, objectives and policies are not clear and some policy directions are not supported elsewhere in the Plan. The submitter considers that the adoption of a clear cross referencing approach would assist in remedying these shortfalls.</p> <p><u>Decision Sought:</u> Adopt a clear cross referencing schedule between the various parts of the Plan.</p>	<p>Decision 14/5 This submission is accepted in part.</p> <p>Amendments to District Plan</p> <ol style="list-style-type: none"> 1. Add the following to Section 2.1: <p style="margin-left: 20px;">Issues, objectives and policies may relate to the District as a whole, or to specific parts within the District. The Plan reflects this by dealing with some issues on a District-wide basis, and others on an area-specific basis. The Plan divides the District into Zones which share amenity values. <u>In carrying out an activity regard must be given to all of the District wide Objectives and Policies as well as the Zone Objectives and Policies specific to the site on which the activity is</u></p>

APPENDIX 1 – Decisions by Submission

SUBMISSION	DECISION
	<p><u>occurring.</u></p> <p>2. Add the following as an introduction to Section 3:</p> <p><u>INTRODUCTION</u></p> <p><u>The rules of the District Plan have been developed as a method of implementation where it is considered a regulatory approach is necessary to avoid, remedy, or mitigate adverse effects. The rules have been divided into two sections, the District wide Rules and the Zone Rules. The District Wide Rules apply throughout the District and should be considered for all activities. The Zone Rules recognise that there are different environments and amenity values that make up the District and only apply to the Zone in which the activity is located. Within the Rule Section notes are also provided where further clarification is considered necessary or there is a particular issue that must be considered.</u></p> <p><u>An activity must be assessed against all of the District wide Rules and the Zone Rules which apply to the site. In addition to the rules, regard must also be given to all of the District wide Objectives and Policies and the Zone Objectives and Policies specific to the site where the activity is occurring. The Objectives and Policies are set out in Section Two of the District Plan.</u></p> <p>Reasons</p> <ol style="list-style-type: none"> As discussed on page 2 of this Decision, the additions will assist plan users. Pamphlets and electronic search tools also provide guidance to plan users.
<p>53.2 - NZ Transport Agency</p> <p>The submitter considers that some policies that are repeated throughout the zone specific sections of the Plan are clearly of concern on a district-wide basis but are not included as a specific section to enable a more focused approach in the zone provisions.</p> <p><u>Decision Sought:</u> Consider restructuring the Plan to reduce repetition of policies relating to glare, electrical interference, lightspill, wind, dilapidated structures and ill-maintained lands, and demolition or removal activities.</p>	<p>Decision 14/6</p> <p>This submission is rejected.</p> <p>Amendments to District Plan</p> <p>None required.</p> <p>Reason</p> <p>Amenity values vary from place to place and each zone has different functions and needs. As a consequence, those matters that contribute to amenity are best considered in the zone specific section of the Plan.</p>

APPENDIX 1 – Decisions by Submission

SUBMISSION	DECISION
<p>117.4 - Southern District Health Board The submitter believes that the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 should be cross referenced to Soil, Minerals and Earthworks.</p> <p><u>Decision Sought:</u> Cross reference the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 to Soil, Minerals and Earthworks.</p>	<p>Decision 14/7 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason The NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 is referred to in the Rule section of the Plan and all activities dealt with in the NES are required to comply with it. Cross-referencing to a number of different District Plan rules that may be relevant is therefore not required, and will be confusing to Plan users.</p>

APPENDIX 2 - Amended District Plan Provisions

ENTIRE DISTRICT PLAN

Upon finalising the District Plan:

- Section 3 is to be renumbered so as to avoid confusion between the rules, notes, and assessment matters.²
- Heading inconsistencies will be corrected and sections placed in alphabetical order.²

SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

2.1 Introduction

Amend the 4th paragraph to read:

Issues, objectives and policies may relate to the District as a whole, or to specific parts within the District. The Plan reflects this by dealing with some issues on a district-wide basis, and others on an area-specific basis. The Plan divides the District into Zones which share amenity values. In carrying out an activity regard must be given to all of the District wide Objectives and Policies as well as the Zone Objectives and Policies specific to the site on which the activity is occurring.³

SECTION THREE – RULES

RULES

⁴INTRODUCTION

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

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

² Minor amendment made under Clause 16(2) of the RMA First Schedule

³ Decision 14/5

⁴ Decision 14/5

Note: Underline indicates additions, strikethrough indicates deletions.