



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 23

Smelter Zone

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 the Smelter Zone.

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

"NZAS" means New Zealand Aluminium Smelters Limited.

"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.

"South Port" means South Port NZ Limited.

"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 on 26 January 2015.

Section 42A Report

The Committee received a report from William Watt of William Watt Consulting. In his report, Mr Watt noted that the Smelter Zone attracted a small number of submissions with all but one from NZAS. The majority of these related to the wording of the District Plan provisions.

Mr Watt considered the major issue was 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. He took the view that 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". He

also considered that because the site was in the coastal zone, any new use on site would need to justify its use of the site anew in terms of national and regional policy documents, environmental effect, and functional need of a coastal location.

Mr Watt referred to submissions requesting that "port activities" be listed as a permitted activity. He considered any development of this nature would raise issues that should be addressed anew via an application under the RMA or (most likely) a Plan Change.

The Committee also received a supplementary report from Liz Devery, Senior Policy Planner with the Invercargill City Council. In her report, Mrs Devery referred to a submission omitted from the original report supporting the extent of the Smelter Zone.

Mr Watt was not present at the hearing. In reply to a question from the Committee Mrs Devery advised that in her view any rewording of Policy 4 Glare should be similar to that used for the corresponding policy in the Seaport Zone, particularly given the presence of substantial structures which had the potential to reflect sunlight. She reiterated advice given to the Committee at the hearing considering Electrical Interference, highlighting that with those policies referring to "nuisance" avoidance was appropriate. This compared to other provisions that sought to avoid, remedy or mitigate "adverse effects" generally.

The Committee also sought clarification from Mrs Devery on the request of South Port to include port activities as a permitted activity within the Smelter Zone, noting that listing the activity would allow use of some of the Smelter land for activities unrelated to the Smelter. She advised the Committee that she agreed with the conclusion of Mr Watt who opposed this submission, primarily because of the values present in the area, in particular the presence of wetlands of natural significance, iwi values and the proximity to the coast. She also opposed the requested change because of a lack of a detailed assessment of the addition sought, both in terms of environmental effects and the objectives and policies of the Proposed Plan. In her view, any "seaport activity" should be subject to a resource consent application or a plan change to enable a full consideration of the effects.

Michael Morris, Legal Adviser with the Invercargill City Council, was also in attendance at the hearing. In reply to questions from the Committee Mr Morris provided an overview of the regime applying to existing use rights under the RMA, noting that "while it is not an easy argument to run" if the Smelter were to close then given it was legally established by way of a resource consent, other activities of a similar character and with similar or lesser effects would be able to establish on the site without the need for any resource consent approval. Mr Morris had not viewed the 1969 consent approving the establishment of the smelter, but noted that the industrial activities on the site were also being undertaken in conformity with the provisions of the Operative District Plan which is relevant to establishing existing use rights.

Submitters Attending the Hearing

No persons appeared at the hearing.

Material Tabled at the Hearing

New Zealand Aluminium Smelters Limited

Ben Williams, Senior Associate with Chapman Tripp, advised by email on behalf of NZAS that no appearance would be made at the hearing, noting that NZAS "are generally happy with the recommendations set out in the Officers Report".

South Port NZ Ltd

Kirsty O'Sullivan of Mitchell Partnerships, by way of a letter on behalf of South Port, advised the Committee that the key rationale for their submission was that "the Port currently provides wharf and causeway servicing to the Smelter Zone (which are defined as seaport activities), therefore such activities should be recognised and provided for within the zone". She also stated:

In addition to providing for the existing seaport activities undertaken within the Smelter Zone, permitting the zone to be used for seaport activities would assist in managing the long term use of the zone, particularly in the event of the Aluminium Smelter closing. A significant infrastructural resource already exists at Tiwai Point, including the buildings, the wharf and causeway, servicing and roading. Providing for the "adaptive reuse" of these structures is consistent with the "sustainable management" purpose of the Resource Management Act 1991 ("RMA") and is consistent with proposed Policy 10 which seeks that "In the event that the 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."

Mrs O'Sullivan also noted that no one had opposed the submission and in her view there was community acceptance or indifference towards the inclusion of seaport activities within the Smelter Zone.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Providing for Seaport Activities within the Smelter Zone

The Committee noted the submission of South Port, and the further submission of NZAS, requesting that Seaport Activities be permitted within the Smelter Zone. It had regard to the Section 42A Report of Mr Watt, the responses to questions given by Mrs Devery at the hearing and the written submissions made on behalf of South Port.

While the Committee noted the comments of Mr Watt that this matter was not relevant while NZAS operated the Tiwai Smelter, it considered that listing an activity as permitted would enable it to be undertaken with immediate effect. That could, and would likely, extend to areas currently undeveloped. In that context any closure of the Smelter was not relevant. Nor did the Committee consider it appropriate to determine at this stage what activities if any should be undertaken within the buildings on the site should the smelter close.

Mrs Devery highlighted to the Committee the high natural values present in much of the Smelter Zone. In that regard, the Committee noted that the "Coastal Environment" included all of the Smelter Zone and much of the zone was identified as an "Area of Significant Indigenous Biodiversity" within which the clearance of indigenous vegetation for any seaport activities would require resource consent approval.

Having regard to the natural values present within the Smelter Zone and its location within the coastal environment, the Committee considered it inappropriate to provide for seaport activities as a permitted activity in the Zone. It acknowledged that the loading and unloading of ships was part of the operations of the smelter, but that was already permitted within the Smelter Zone. The Committee was concerned that the scale of seaport activities could expand significantly with permitted activity status. It was not satisfied on the basis of the information provided by South Port that such expansion was appropriate. It considered that it would be necessary for a detailed proposal to be prepared, together with a full assessment of effects and the relevant statutory documents before a decision on the suitability of the seaport activity within the Smelter Zone could be determined.

The Committee did not consider it relevant that there was no further submission opposing the South Port request. It was of the view that it is the effects of the change and the matters contained in the various statutory documents and considerations that should guide decision-making, not the extent, or lack of, any opposition.

SECTION 32 MATTERS

Requirements

The Committee was advised by Mr Watt 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

Mr Watt in his Section 42A Report advised the Committee as follows:

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.

For those decisions that reflect the recommendations made by Mr Watt in his Section 42A Report, the Committee agrees with that approach and adopts it.

This decision makes a number of changes that differ from Mr Watt's recommendations. A Section 32 Assessment on these changes is required. These changes are:

- Rewording of 2.43.3 Policy 4 Glare
- Amending 2.43.3 Policy 7
- Rewording 2.43.3 Policy 10 Re-use and Rehabilitation

This decision does not propose amendments to any objectives. This Section 32 assessment considers whether the provisions are the most appropriate means of achieving the Objectives of the Plan.

Reword 2.43.3 Policy 4 Glare

This amendment recognises that there is the potential for glare from activities within the Smelter Zone and focuses the policy on avoiding nuisance beyond the site, which differs from the recommendation to include the terms remedy or mitigate nuisance.

The Objectives for the Smelter Zone seek to manage the environmental effects on those activities beyond the Zone boundary. Avoiding nuisance beyond the zone is a means of achieving this objective. The alternative of also providing for remedying and mitigating nuisance is not considered to be the most appropriate means of achieving the Objective. Nuisance is at the unacceptable end of the spectrum of adverse effects. Remedying and mitigating these unacceptable effects is not considered an appropriate means of managing the environmental effects on activities beyond the site. When managing activities within the Smelter Zone it is reasonable to expect that any of these unacceptable effects from glare are avoided.

Due to the minor nature of this change, it is not necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

Avoiding nuisance from glare allows for some glare, therefore does not place an unreasonable expectation on the land use operators within the Smelter Zone. Depending on the development and the activities proposed within the Smelter Zone, there may be some consideration required and management actions that may need to be taken that will add to time and costs. The wider community will benefit from the protection offered by this policy for the general amenity values of areas outside the Smelter Zone.

Reword 2.43.3 Policy 7

This policy outlines what dimensions of amenity do not require regulatory controls in the Smelter Zone. This amendment recognises that signage, private open space and density, and public open space do require regulatory controls. However, the amendment includes site coverage as an area that does not require regulatory control.

Due to the minor nature of the change to this provision, it is not necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes. The amendment corrects factual errors and could arguably be made as a minor amendment under Clause 16 of the First Schedule of the RMA. There are District Plan provisions managing the effects of these dimensions of amenity, particularly as they relate to the effects on areas outside the Zone boundary. This should achieve the objectives of the Plan.

Reword 2.43.3 Policy 10 Re-use and Rehabilitation

The differences between what was recommended by Mr Watt and what the policy states in this decision are minor and do not necessitate an evaluation beyond that already carried out in Mr Watt's report and the original Section 32 report.

Dated at Invercargill this 11th day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface



Councillor Graham Sycamore



Keith Hovell

APPENDIX 1 - DECISIONS ON SUBMISSIONS

SUBMISSION	DECISION
SECTION TWO – ISSUES, OBJECTIVES AND POLICIES	
2.43 Introduction	
<p>71.28 - NZAS Ltd The submitter considers the introduction should refer to the wharf at Tiwai Point as it is considered an integral part of their operation.</p> <p><u>Decision sought:</u> Amend Introduction as follows:</p> <p>The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for <u>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.</u></p>	<p>Decision 23/1 This submission is accepted.</p> <p>Amendments to District Plan Amend Introduction to read:</p> <p>The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for its reliance on Tiwai Wharf as part of its operations a location adjacent to a port (for the import of alumina raw materials) and its location <u>within close proximity to port facilities at Bluff for export of product.</u></p> <p>Reason The Tiwai wharf is strategically important for the operation of the Smelter and it is appropriate to recognise that in the Plan.</p>
2.43.1 Issues	
<p>71.29 - NZAS Ltd NZAS supports Issue 1. The submitter supports the recognition of the need to protect the Smelter’s operational requirements. Retain Issue 1.</p>	<p>Decision 23/2 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports Issue 1 and seeks no change to it.</p>
2.43.2 Objectives	
<p>71.30 - NZAS Ltd NZAS supports Objective 1 - the recognition of the economic importance of the Smelter. Retain Objective 1.</p>	<p>Decision 23/3 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports Objective 1 and seeks no change to it.</p>

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2.43.3 Policies	
<p>71.32- NZAS Ltd NZAS supports the wording of Policy 1 – Smelter Zone. Retain Policy 1</p> <p>71.39 - NZAS Ltd NZAS supports the wording of Policy 8 - On-site Servicing Capacity. Retain</p> <p>71.40 - NZAS Ltd NZAS supports the wording of Policy 9 – Hazardous substances. Retain</p>	<p>Decision 23/4 These submissions are noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports various policies and seeks no change to them.</p>
<p>71.33 - NZAS Ltd NZAS opposes the wording of Policy 2 – Noise - in part. <u>Decision sought:</u> NZAS requests that Policy 2 be amended as follows: 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 <u>protection from unreasonable or excessive noise as part of their residential amenity in terms of freedom from noise.</u></p>	<p>Decision 23/5 This submission is accepted.</p> <p>Amendments to District Plan Amend Policy 2 as follows: 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 <u>protection from unreasonable or excessive noise as part of their residential amenity in terms of freedom from noise.</u></p> <p>Reason The suggested wording is an improvement on that notified.</p>
<p>71.34 - NZAS Ltd NZAS supports Policy 3 Odour in part. NZAS requests that Policy 3 be amended as follows: To accept that odour emissions associated with aluminium smelting activities whilst also ensuring the absence of objectionable odour.</p>	<p>Decision 23/6 This submission is accepted.</p> <p>Amendments to District Plan Amend Policy 3 as follows: To accept that odour emissions associated with aluminium smelting activities whilst also ensuring the absence of objectionable odour.</p> <p>Reason The suggested wording is an improvement on that notified.</p>

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<p>71.35 - NZAS Ltd NZAS Opposes the wording of Policy 4 – Glare - in part. NZAS requests that Policy 4 be re-worded as follows:</p> <p>To avoid, <u>remedy or mitigate</u> nuisance from glare.</p> <p>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.</p>	<p>Decision 23/7 This submission is accepted in part.</p> <p>Amendments to District Plan Amend Policy 4 as follows:</p> <p>To <u>accept that glare may be an effect from activities in the Smelter Zone while avoiding</u> nuisance from glare <u>beyond the site.</u></p> <p>Reasons</p> <ol style="list-style-type: none"> 1. Nuisance is at the unacceptable end of the spectrum of adverse effects, and as such it is appropriate to "avoid" a nuisance rather than remedy or mitigate it. 2. The Smelter Zone has similarities to the Seaport Zone and to provide consistency between the policies of the two zones, the Committee in response to this submission has adopted a similar wording in the policies. 3. Glare from the Smelter buildings affects ships using the leading marks to transit the channels into Bluff Harbour. As a consequence, the reference to "transportation networks" should stay.
<p>71.38 - NZAS Ltd NZAS supports the wording of Policy 7 Wind but notes that this demonstrates the inappropriateness of the broadness of Objective 2.</p>	<p>Decision 23/8 This submission is noted.</p> <p>Amendments to District Plan Consequential to Decisions 1/7 and 23/11 Policy 7 is amended to read:</p> <p>Wind, <u>signage, site coverage</u>, height of structures, private open space and density, landscaping, planting and screening, public open space, weather protection <u>electrical interference</u>: To acknowledge that these dimensions of amenity do not require regulatory controls in the Smelter Zone.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The submitter supports Policy 7 but opposes Objective 2 and Method 3 of the Smelter Zone. Submissions to the latter provisions have been allowed in part in Decisions 1/7 and 23/11 requiring a consequential change to this provision as well. 2. The amendments made correct factual errors, and in any case are of a minor nature within the bounds of Clause 16 of the First Schedule of the RMA.

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<p>71.41 - NZAS Ltd NZAS opposes Policy 10 Rehabilitation and re-use of the site because:</p> <ul style="list-style-type: none"> The submitter does not consider the policy achieves its goal of encouraging appropriate adaption, re-use and remediation of the site as it is currently worded. The submitter opposes the requirement that buildings be “well-maintained” on the grounds that it believes the maintenance plan is a matter for its own determination and consideration. The submitter considers the term “demolition and replacement” is confusing as it implies that if a building is demolished then it should be replaced, when this may not be the best option. The submitter also notes that it is not clear how demolition is to be promoted. The submitter considers that the policy is open to misinterpretation as it is not clear whether it is intended to apply during the life of the Smelter or if part of it is only to apply once the Smelter is decommissioned. <p><u>Decision sought:</u> Delete.</p>	<p>Decision 23/9 This submission is accepted in part.</p> <p>Amendments to District Plan Policy 10 is amended as follows:</p> <p>Re-use and Rehabilitation and re-use of buildings: In the event that aluminium smelting activities are discontinued within the Zone, to promote adaptive re-use of buildings, and if that does not occur encourage the rehabilitation of the site, including the removal 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.</p> <p>Reason</p> <ol style="list-style-type: none"> The policy was poorly worded and would not achieve its goal of encouraging appropriate adaption, re-use and remediation of the site. It is appropriate for the Council to set out its priorities in the event that the current smelter use of the site is discontinued.
2.43.4 Methods of Implementation	
<p>71.44 - NZAS Ltd NZAS supports Methods 1, 2, 4, 6 and 7. Retain.</p>	<p>Decision 23/10 These submissions are noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports various Methods and seeks no change to them.</p>
<p>71.45 - NZAS Ltd NZAS opposes Methods 3 and 5, on the basis that the submitter feels there is no justification for referring to amenity values in relation to the Smelter Zone and for any requirement that they be identified. Further, the submitter considers that it is its place to determine the layout of the site and this may not be in accord with the amenity values that exist elsewhere in the city district.</p> <p><u>Decision sought:</u> Delete Methods 3 and 5.</p>	<p>Decision 23/11 This submission is accepted in part.</p> <p>Amendments to District Plan Amend Method 3 to read:</p> <p>Identify the anticipated amenity values in and around for the Smelter Zone, where appropriate include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other Territorial</p>

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	<p>Authorities.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. In response to Submission 71/31 considered in Decision 1/7, the Committee noted that within the Smelter Zone there are amenity values of note, such as natural values, particularly within the coastal environment. The Committee agreed that an objective referring to amenity values should be retained, but in a form that was more enabling than provided for by that notified. The Committee considered that provision should be made for the activities provided for by the Zone, while at the same time managing the adverse effects of activities beyond the Zone boundary. As a consequence, Method 3 should be retained, but subject to a minor rewording. 2. Method 5 sets out matters to be considered in preparing any application for resource consent within the Zone. The extent of assessment required would be commensurate with the scale of any impacts. The Committee is of the view that such a provision is appropriate.
<p>71.46 - NZAS Ltd NZAS opposes Method 8 in part, on the basis that it is too vague about who should be consulted.</p> <p><u>Decision sought:</u> An amendment to Method 8 as follows:</p> <p>Consult with <u>stakeholders who may be affected by the operation of the Smelter, for example</u> landowners and occupiers, Iwi, Central Government organisations, internal Council departments and local community and business groups.</p>	<p>Decision 23/12 This submission is accepted.</p> <p>Amendments to District Plan Amend Method 8 to read:</p> <p>Consult with <u>stakeholders who may be affected by the operation of the Smelter, for example</u> landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.</p> <p>Reason The requested wording clarifies the Council's intent.</p>
SECTION THREE - RULES	
<p>24.69 - South Port NZ Ltd South Port opposes Rule 3.41.1 in part.</p> <p><u>Decision sought:</u> 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.</p> <p>FS2.45 NZAS Ltd - NZAS supports Submission 24.69.</p>	<p>Decision 23/13 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason As discussed on page 3 of this Decision, having regard to the natural values</p>

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	present within the Smelter Zone and its location within the coastal environment, the Committee considered it inappropriate to provide for seaport activities as a permitted activity in the Zone.
<p>71.62 - NZAS Ltd NZAS supports Rule 3.41.1 in part.</p> <p><u>Decision sought:</u> The submitter seeks an expansion in the list of permitted activities for clarity:</p> <p>The following are permitted activities in the Smelter Zone:</p> <p>(A) Agriculture other than plantation forestry. (B) Aluminium smelting <u>and ancillary activities.</u> (C) <u>Business activities, including administration activities, training activities and professional and personal services</u></p>	<p>Decision 23/14 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The Committee agrees that a widening of the scope of activities undertaken at the Smelter is required. However, the inclusion of "business activities" as a permitted activity would enable businesses not currently present within the Zone and unrelated to the Smelter to locate there. 2. A more appropriate approach is to amend the definition of "aluminium smelting" as provided for in Decision 23/16.
<p>71.63 - NZAS Ltd NZAS opposes Rule 3.41.2 in part.</p> <p><u>Decision sought:</u> Clarification to the rule to read as follows:</p> <p><i>Non-complying activities:</i> <i>The following are non-complying activities in the Smelter Zone: (A) Any other activity not listed as permitted, <u>controlled, restricted discretionary or discretionary.</u></i></p> <p>FS32.2 - Placer Investments Ltd support that part of Submission 71.63 that seeks recognition that other provisions within the Proposed Plan, that are not set out within the Smelter Zone section, will apply within the Smelter Zone.</p> <p><u>Decision sought:</u> The submitter seeks an amendment to the activity status for 3.41.2 to be changed from non-complying to discretionary, or recognition that mining within the Smelter Zone is not a non-complying activity</p>	<p>Decision 23/15 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. There are no controlled, restricted discretionary or discretionary activities in the Smelter Zone. As a consequence, the addition sought is not required. The status resulting from District wide rules does not change the status of activities within the Smelter Zone. 2. Mining cannot reasonably be foreseen as an activity within the Smelter Zone and it is not 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. <p>In considering the further submission, the Committee has concluded that the</p>

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	<p>wording of Rule 3.17.1 requires clarification. The following change is made pursuant to Clause 16(2) of the First Schedule of the RMA, and Decision 26/23:</p> <p>3.17.1 <u>Rules 3.17.2 – 13.17.8 do not apply to:</u></p> <p>(A) <u>Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.</u></p>

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SUBMISSION	DECISION
DEFINITIONS	
<p>71.65 - NZAS Ltd The definition Aluminium smelting is supported 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.</p> <p>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.</p> <p>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.</p> <p><u>Decision sought:</u> Amend the definition of “Aluminium smelting” as follows:</p> <p>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:</p> <p>(A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker’s accommodation, wharves, stores, roading, parking and/or essential services.</p> <p>(B) Stockpiles, facilities and structures for the storage, loading and unloading.</p> <p>(C) The disposal and/or treatment of waste material and effluent associated with the above.</p> <p>(D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.</p> <p>(E) <u>Earthworks.</u></p> <p>(F) <u>Activities associated with fire fighting and emergency services.</u></p>	<p>Decision 23/16 This submission is accepted in part.</p> <p>Amendments to District Plan The definition of "Aluminium Smelting" is amended as follows:</p> <p>Aluminium Smelting: Means the casting and smelting of aluminium, together with those industrial <u>and other ancillary</u> activities providing equipment, product or other inputs to these processes, and includes:</p> <p>(A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker’s accommodation, wharves, stores, roading, parking and/or essential services.</p> <p>(B) Stockpiles, facilities and structures for the storage, loading and unloading.</p> <p>(C) The disposal and/or treatment of waste material and effluent associated with the above.</p> <p>(D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.</p> <p>(E) <u>Earthworks</u></p> <p>(F) <u>Activities associated with fire-fighting and emergency services.</u></p> <p>Reason The definition requires amendment to recognise the activities currently undertaken on the site.</p>

APPENDIX 1 - DECISIONS ON SUBMISSIONS

SUBMISSION	DECISION
PLANNING MAPS	
<p>71.69 - NZAS Ltd The submitter supports the Smelter Zone as identified on Maps 27, 29 and 31. Retain the Smelter Zone.</p>	<p>Decision 23/17 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports the extent of the Smelter Zone seeks no change to it.</p>

APPENDIX 1 - DECISIONS ON SUBMISSIONS

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APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION 2 ISSUES, OBJECTIVES AND POLICIES

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 its reliance on Tiwai Wharf as part of its operations a location adjacent to a port (for the import of alumina raw materials)~~ and its location 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.¹

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.

2.43.3 Policies

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 unreasonable or excessive noise as part of their residential amenity ~~in terms of freedom from noise.~~²

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.*

¹ Decision 23/1

² Decision 23/5

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

Policy 3 Odour: To accept ~~that~~³ 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 accept that glare may be an effect from activities in the Smelter Zone while avoiding nuisance from glare beyond the site.⁴

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 7 Wind, ~~signage, site coverage,~~ height of structures, ~~private open space and density,~~ landscaping, planting and screening, ~~public open space,~~ weather protection⁵; electrical interference.⁶ To acknowledge that these dimensions of amenity do not require regulatory controls in the Smelter Zone.

Explanation: *Because of the large and isolated nature of the site and the self-contained and extensive nature of the smelter operation, these dimensions of amenity are not relevant in the zone.*

Policy 10 ~~Re-use and Rehabilitation and re-use of buildings:~~ In the event that aluminium smelting activities are discontinued within the Zone, to promote adaptive re-use of buildings, and if that does not occur encourage the rehabilitation of the site, including the removal 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.~~⁷

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 makes best use of the land resource and infrastructure. Derelict industrial properties and poorly maintained industrial land could significantly detract from the amenities of the neighbouring town.*

2.43.4 Methods of Implementation

Method 3 Identify the anticipated amenity values in and around ~~for~~ the Smelter Zone, where appropriate include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other Territorial Authorities.⁸

³ Decision 23/6

⁴ Decision 23/7

⁵ Decision 23/8

⁶ Decision 11/4

⁷ Decision 23/9

⁸ Decision 23/11

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

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.⁹

SECTION 3 RULES

3.17 Soils, Minerals and Earthworks

Earthworks and Filling Activities

~~3.17.1~~ This rule does not apply in the Smelter Zone.

3.17.1 Rules 3.17.2 – 13.17.8 do not apply to:

- (A) Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.¹⁰

SECTION 4 DEFINITIONS

¹¹ **Aluminium Smelting:** Means the casting and smelting of aluminium, together with those industrial and other ancillary 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) Activities associated with fire-fighting and emergency services.

⁹ Decision 23/12

¹⁰ Minor amendment made under Clause 16(2) of the RMA First Schedule. Refer also to Decisions 23/15 and 26/23.

¹¹ Decision 23/16

Note: Underline indicates additions, strikethrough indicates deletions.