



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 31

Otatara

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 Plan. In this decision we consider the submissions lodged in relation to the Otatara Zone provisions in the District Plan.

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, 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.

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

"FS" means Further Submission.

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

"IAL" means Invercargill Airport 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.

"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 28 April 2015.

Section 42A Report

The Hearings Committee received a report from Joanna Shirley, Policy Planner with the Invercargill City Council. In her report, Mrs Shirley explained that Otatara differs from residential areas elsewhere in the City because of its large properties, high degree of privacy and scenic values, including remnants of ancient sand dune systems and significant biodiversity. These unique characteristics are valued by the community and are recognised and protected by the Proposed Invercargill City District Plan. She also advised that in 2010 the Otatara Sub-Area underwent a Council initiated Plan Change (Plan Change 9) with the provisions becoming fully operative in 2013 and that the provisions of Plan Change 9 have been largely incorporated into the Proposed District Plan.

Mrs Shirley advised that the Environmental and Planning Services Division of the Council and the Invercargill Airport Limited are the only two submitters specifically on the Otatara

Zone provisions of the Proposed Plan, and she recommended that these submissions are accepted. Mrs Shirley also indicated that more general submissions from the New Zealand Fire Service and Invercargill Airport Limited were dealt with in other Section 42A Reports.

Mrs Shirley also referred the Committee to Rule 3.33.2 that lists as a discretionary activity "commercial activity limited to a maximum area of 150 square metres" noting this was carried over from the Operative District Plan but that "commercial activity" is no longer defined or used in the Proposed District Plan. Rather, the Proposed Plan splits this into specific activities, being Professional and Personal Services, Restaurants, Bars, Taverns, and Retail sales. She therefore recommended amending Rule 3.33.2 so that the specific activities are listed and that commercial activity is deleted. It was her view that this is a minor amendment that is neutral in effect and can therefore be made under Clause 16 (2) of the First Schedule to the RMA.

Submitters Attending the Hearing

Invercargill Airport Limited

Claire Hunter, Senior Resource Management Consultant with Mitchell Partnerships Limited, provided written evidence on behalf of IAL in which she noted that the only matter relevant in the Section 42A Report was support for 2.34.3 Policy 15 that recognised the Airport's obstacle limitation surfaces.

Material Tabled at the Hearing

No material was tabled at the hearing.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Airport Noise Issues

The Committee noted that a significant issue impacting on the Otatara area was the effect of noise from operations at the Invercargill Airport and the request of IAL to introduce controls applying to noise sensitive activities within areas affected by those operations. For completeness, the Committee records that this matter is dealt with in detail in Decision 33 Noise Issues. Decision 21 Airport Zone is also relevant in terms of activities undertaken within that Zone.

Minor Alterations

Mrs Shirley referred the Committee to Rule 3.33.2 that lists as a discretionary activity "commercial activity limited to a maximum area of 150 square metres" noting this was carried over from the Operative District Plan but that "commercial activity" is no longer defined or used in the Proposed District Plan. The Committee agreed with Mrs Shirley that amending the rule to refer to the various activities now provided for in place of the "commercial activity" provisions of the Operative Plan was a minor amendment that is neutral in effect and can be made 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

No changes are being made to the Proposed District Plan in response to the submissions. As the Committee understands its obligations, it is not required to undertake any further assessment of matters outlined in Section 32 of the RMA.

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
SECTION TWO ISSUES OBJECTIVES AND POLICIES	
<p>65.72 ICC Environmental and Planning Services Support Policy 3 subject to amendment of drafting error in explanation that refers to the background papers.</p> <p><u>Decision Sought:</u> Reword second paragraph of explanation to begin: Seasonal variations in sun angles, sunrise and sunset affect the incidence of sunlight and daylight.</p>	<p>Decision 31/1 This submission is noted.</p> <p>Amendments to District Plan 2.34.3 Policy 3 has been deleted as a consequence of Decision 34/18</p> <p><u>Reason:</u> Decision 34/18 deletes Policy 3.</p>
<p>103.58 Invercargill Airport Ltd Support Policy 15. The submitter considers it appropriate to acknowledge that areas within this zone are affected by obstacle limitation surfaces and that this will impact on the height of buildings. Retain Policy 15.</p>	<p>Decision 31/2 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p><u>Reason:</u> The submitter supports the provision and seeks no change to it.</p>

APPENDIX 1 - DECISIONS BY SUBMISSION

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SECTION THREE - RULES

3.33 OTATARA ZONE¹

3.33.2 **Discretionary Activities:** The following are discretionary activities in the Otatara Zone:

- (A) Agriculture on sites of less than 4000m²
- (B) Animal boarding activity
- (C) Commercial Service activity limited to a maximum area of 150 square metres
- (D) Commercial recreation activity
- (E) Communal activity
- (F) Education activity other than those on sites listed in Appendix V - Educational Activity (Existing)
- (G) Essential services
- (H) Health care activity
- (I) Hospital activity
- (J) Marae activity
- (K) Office Activity limited to a maximum area of 150 square metres
- ~~(K)~~ (L) Residential care activity for nine or more persons
- (M) Restaurants, bars and taverns limited to a maximum area of 150 square metres
- (N) Retail sales limited to a maximum area of 150 square metres
- ~~(L)~~ (O) Veterinary clinic
- ~~(M)~~ (P) Visitor accommodation

¹ Minor change under Clause 16(2) of the First Schedule as a consequence of other decisions

Note: Underline indicates additions, strikethrough indicates deletions.