



## **PROPOSED INVERCARGILL CITY DISTRICT PLAN**

### **Decision No. 32**

### **Definitions**

#### **Hearings Committee**

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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**INDEX**

- Introduction** ..... 1
- The Hearing to Consider Submissions to the Proposed Plan** ..... 1
  - Section 42A Report..... 2
  - Submitters Attending the Hearing ..... 2
  - Material Tabled at the Hearing ..... 3
- The Hearing to Consider Submissions to Variations Nos. 3, 4 and 5** ..... 5
  - Section 42A Reports ..... 5
  - Submitters Attending the Hearing ..... 6
  - Material Tabled at the Hearing ..... 7
- Matters Requiring Particular Consideration**..... 7
  - Building Improvement Centres ..... 7
  - Drive-Through Restaurants ..... 8
  - Definition of "Agriculture" ..... 9
  - Community Correction Facilities ..... 10
  - Definition of "Height" ..... 11
  - Dairy Processing ..... 11
- Section 32 Matters**..... 12
  - Requirements ..... 12
  - Assessment..... 13
- Appendix 1 Decisions on Submissions** ..... 17
  - Suggested New Definitions..... 17
    - New Definition for "Building Improvement Centre" ..... 17
    - New Definition for "Drive-Through Restaurants" ..... 18
    - New Definition for "Urban Area" ..... 19
    - New Definition for "Wetland" ..... 19
  - Specific Definitions ..... 19
    - Definition of "Agriculture" ..... 19
    - Definition of "Bar" ..... 21
    - Definition of "Building" ..... 21
    - Definition of "Community Service" ..... 22
    - Definition of "Communal Activity" ..... 22
    - Definition of "Contiguous Ownership" ..... 23

Definition of "Education Activity" .....	23
Definition of "Essential Services" .....	25
Definition of "Factory Farming" .....	25
Definition of "Habilitation Centre" .....	26
Definition of "Height" .....	26
Definition of "Hospital Activity" .....	26
Definition of "Light Industry" .....	27
Definition of "Net Site Area" .....	27
Definition of "Retail Sales" .....	28
Definition of "Supermarket" .....	29
Definition of "Tavern" .....	29
Definition of "Temporary Military Training" .....	30
Appendix IX Schedule of Heavy Industries .....	30
<u>Variation 3 – Professional and Personal Services</u> .....	32
Definition of "Commercial Service Activity" .....	32
<u>Variation 4 – Definition of "Height"</u> .....	32
Definition of "Height" .....	32
<u>Variation 5 – Industrial Activities</u> .....	33
General .....	33
Section 4 – Definitions .....	34
Section 5 – Appendices .....	36
<b>Appendix 2 Amended District Plan Provisions</b> .....	<b>39</b>

## **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 Definitions section of 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 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 them. 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.

"The Cunningham Group" means Leven Investments Limited, Victoria Estate Trust, Russell Cunningham Properties Limited and Showgrounds Mall Limited.

"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.

"HWRG" means H W Richardson Group Ltd.

"NZAS" means New Zealand Aluminium Smelters Limited.

"NZFSC" means the New Zealand Fire Service Commission.

"The Oil Companies" means Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand 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.

"VFS" means a Further Submitter on a submission to a Variation 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 TO CONSIDER SUBMISSIONS TO THE PROPOSED PLAN**

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 Panel received a report from Liz Devery, Senior Policy Planner with the Invercargill City Council. In her report, Mrs Devery recommended a number of changes to definitions to provide a clearer, more accurate and more user friendly document. She also recommended the addition of new definitions for "wetlands", and "drive-through facility", the removal of "residences" from the definition of "agriculture" and a number of changes to the definitions of "retail sales" and "professional and personal services" to clarify the scope of these terms.

### **Submitters Attending the Hearing**

#### Cunningham Group

Luke McSoriley, Resource Management Planner at Opus International, appeared on behalf of the Cunningham Group. In a written statement Mr McSoriley outlined that the activities allowed by virtue of the definition of "light industrial" were insufficient to allow for the range of activities he considered appropriate within the Showgrounds development area. This would result in any new businesses within that area, and any expanding existing uses, needing to obtain resource consent. In his view the land should remain Enterprise Sub-Area as in the Operative District Plan or given a new Business 6 zoning as set out in other submissions lodged by the Cunningham Group.

Vicki Corkill also presented a written statement expressing the view that the Plan provisions should reflect established land uses and she is opposed to the proposed zoning changes of any land which is inconsistent with its existing permitted use. She also expressed confusion with what the Proposed Plan is trying to achieve with the zoning definitions in both Business 3 (Specialist Commercial) Zone and Industrial 1 (Light) Zone.

#### Department of Corrections

Kirsten Roderique, District Manager, Community Probation, Southland/Central Otago, presented written evidence explaining the work of the Department through its Community Corrections facilities. She outlined that in Invercargill the Department operates one non-custodial service centre site and a site directly supporting the Courts based in Don Street that was to close in August 2015. She outlined that the Department looks to locate its offices where their requirements are best met, including access of offenders to public transport, ability to work with agencies, sufficient space, and an ability to be discretely positioned.

Stephanie Steadman, Senior Advisor RMA with the Department of Corrections, also provided written evidence explaining that to best serve the community, the Community Corrections facilities are usually located in commercial or business areas, and if possible, near other government facilities such as the Courts, Police and Work and Income. She added that on occasion services are located in other zones such as Industrial zones. Mrs Steadman explained that the definitions in the Proposed Plan did not provide for Community Corrections activities which in District Plans commonly fall within the definition of "Commercial Activity", however, in the Proposed Plan the closest definition appeared to be "Community Service". She explained that Corrections' submission sought for the definition of Community Service to be expanded to provide for the Community Corrections activity.

Mrs Steadman opposed the approach of the Section 42A Report suggesting that the department's activities would fall within the definition of "Professional and Personal Services" stating:

I support the intent of this approach. However, Community Corrections facilities have some unique requirements which mean that they do not necessarily sit alongside the other activities captured within this definition.

... The proposed rules as they stand mean that a Community Corrections facility would be a Permitted Activity within the Business 1, 2 and 4 Zones, but would be a Discretionary Activity in the Business 3 and Industrial 1 Zone.

... the Community Corrections site components of a Community Corrections facility are consistent with an ordinary commercial office activity i.e. probation, report writing, administration and rehabilitation and reintegration services. However, the community work component is slightly different. Offenders sentenced to community work meet at the site in the morning, gather tools and equipment, and are then transported in Corrections' vehicles (also kept at the site) to complete their work. They are then dropped off back at the facility in the afternoon. This component is not ordinarily compatible with high intensity central business zones. It is often more suited to lower density business zones which are still close to the amenities of the central business zone. As such, I consider that the proposed definition does not meet the operational requirements of Corrections.

I understand and agree with the reasoning outlined in the proposed Issues, Objectives and Policies for not providing office activities to be located in the Business 3 Zone or the Industrial 1 Zone. However, as outlined above, Community Corrections facilities are often best located in these zones. In order to address this, it is my submission that a separate definition be created for Community Corrections facilities, and the rules be amended to provide for this activity within the Business 1, 2, 3 and 4 Zones as well as Industrial 1 Zone.

#### Federated Farmers of NZ

Ms Tanith Robb appeared on behalf of Federated Farmers of New Zealand, reading a statement prepared by David Cooper, Senior Policy Adviser for Federated Farmers.

Mr Cooper supported the rejection of Submission 64.35 Department of Conservation which sought to truncate the definition of "agriculture". In his view this would have resulted in confusion and require resource consent for some of the normal farming activities. Mr Cooper supported the recommended changes to the definition of "agriculture".

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

##### New Zealand Aluminium Smelters Limited

Ben Williams, Senior Associate at Chapman Tripp, advised the Committee on behalf of NZAS that at an earlier hearing NZAS had sought an amendment to the definition of "Aluminium Smelting" and the recommendation in the Section 42A Report on Water agreed with that. He also noted that NZAS sought new definitions of "community" and "non-council water supply scheme" in order to clarify references to "community water supply schemes" made in the Proposed Plan. The Section 42A Report recommended amending 2.1.8.3 Policy 2 in order to clarify the status of the NZAS water supply, thereby removing the need for additional definitions. Mr Williams indicated that NZAS would be satisfied with that recommendation.

##### New Zealand Fire Service Commission

Alex Strawbridge of Beca Ltd advised the Committee that the NZFSC supported the recommendation to retain the definition of "essential services".

### H W Richardson Group Ltd

Megan Justice, a Senior Environmental Consultant with Mitchell Partnerships Ltd, advised the Committee on behalf of HWRG of the submitter's opposition to the definition of "light industry" because of the restrictions it placed on hours of business and site size. The submitter supported the staff recommendation to amend the definition to delete reference to these matters but opposed the inclusion of the 1ha site size in the zone specific rules. Mrs Justice doubted there was scope in the submissions lodged to make such a change, and also considered that the site area did not impact on the effects of the light industrial use. She added that if the Council was concerned with residential interface effects, it may be appropriate to include a setback from Residential Zone boundaries.

### Ministry of Education

Julie McMinn, Principal Resource Management Planner at Opus International, advised the Committee that the Ministry of Education opposed the recommendation in the Section 42A Report rejecting that part of a submission by the Ministry which sought the inclusion of "early childhood centres" in the definition of "education activity". The Section 42A Report considered this unnecessary as "early childhood centres" were included as part of "child day care facilities".

Ms McMinn referred to Section 310 of the Education Act 1989 which provided for early childhood education centres and excluded a number of day-care style facilities. She considers that splitting early childhood education centres from other types of education, including schools, does not recognise that for some children education starts before primary school, and facilities for such children are sometimes provided for on school sites. She also commented that the effects associated with early childhood centres, such as noise and traffic, were the same as the effects of schools.

### Progressive Enterprises Ltd

Mike Foster of Zomac Planning Solutions Ltd advised the Committee that Progressive Enterprises Ltd accepted the recommendation to amend the definition of "supermarket" notwithstanding the wording used was not exactly as sought by the submitter. While not contained in the submission lodged, he also stated that Progressive opposed the area limit of 500 square metres for supermarkets as some of its Super Value stores were down to 400 squares in size. He referred to the Matamata-Piako District Plan, where on appeal an area of 200 square metres was agreed to, and considered the submission lodged gave scope for this figure to also be adopted.

### Transpower

Sarah Shand, Environmental Planner, noted the recommendations to retain the definitions of "maintenance and replacement", "building" and "National Grid". She also referred the Committee to evidence she gave at the hearing on Infrastructure in which she discussed various definitions referring to the national grid, and asked that this evidence be referred to in the context of the current report being considered.

### The Oil Companies

Karen Blair, Principal Planner at Burton Consultants, advised the Committee on behalf of the Oil Companies that the definitions of "hazardous substance", "contaminated land" and "earthworks" had been considered in early hearings. With regard to the current hearing the Oil Companies supported the recommendation to alter the definition of "light industry" and accepted other recommendations referring to their further submissions.

### Alliance Group Ltd

Clare Hunter of Mitchell Partnerships Ltd advised on behalf of the Alliance Group that it supported the recommendation to include a new definition for "meat processing facility".

### New Zealand Racing Board

Robert Speer, a planning and retail analyst consultant, gave written evidence referring to the status of TABs as standalone activities or as an ancillary activity in taverns. He agreed with the recommendation in the Section 42A Report to explicitly include reference to "Totalisator Agency Boards" in the definition of "Professional and Business Services" and noted such an approach is consistent with that adopted in other District Plans in providing for standalone outlets.

Mr Speer expressed concern however at the lack of provision for TABs as an ancillary activity in taverns, meaning that only five of the 13 outlets in Invercargill would have permitted activity status. While he recognised that existing use rights would apply, he noted that consent would be required for any TAB ancillary to a tavern in the Business 3, Industry and Residential Zones. Given that all TAB customers within a tavern are also customers of the tavern he did not consider that permitting TABs in such a setting would add to the effects of the tavern activity. He therefore requested that the definition of tavern be amended to include an auxiliary activity of a TAB.

### Bunnings Ltd

Kay Panther Knight, Associate at Barker and Associates, on behalf of Bunnings Ltd, referred to the original submission lodged which sought the inclusion of a definition of "building improvement centre" so that the activities of the submitter were explicitly provided for. It was her view that the nature of products sold at Bunnings stores took them outside of the definition of "retail" and as a result a separate definition is required. Ms Panther Knight referred to the provisions in other District Plans and the varying manner by which Bunnings' stores were provided for.

## **THE HEARING TO CONSIDER SUBMISSIONS TO VARIATIONS 3, 4 AND 5**

### **Section 42A Reports**

#### Variation 3 – Professional and Personal Services Activities

The Hearings Panel received a report from Liz Devery, Senior Policy Planner with the Invercargill City Council, in which she outlined that the definition of "Professional and Personal Services" included in the Proposed Plan required clarification. As a consequence, this definition was being amended and a new definition of "Office Activity" introduced. Variation 3 also listed the status of these activities in each zone.

Mrs Devery outlined that of the three submissions received with regard to the definitions of "commercial service activity" and "office activity" only one, from the Department of Corrections, raised an issue of substance. That submission sought the inclusion of a new definition for "Community Corrections Facilities" and its listing as a permitted activity in the Business and Industrial 1 Zones. Mrs Devery considered that this activity was provided for under the new definition of "Office Activities". At the hearing, she suggested for clarity "Community Corrections Facilities" could be explicitly included in the new definition of "Office Activities".

#### Variation 4 – Definition of Height

The Hearings Committee received a report from Gareth Clarke, Senior Policy Planner with the Invercargill City Council. In his report he outlined that Variation 4 sought to amend the definition of “height” to make it easier to understand and implement. In particular, various exemptions to the definition are removed by the Variation. Mr Clarke advised the Committee that two submissions had been lodged to the Variation, with one seeking a minor amendment which he supported. The other submission supported the Variation.

#### Variation 5 – Definition of Heavy Industry

The Hearings Committee received a report from Gareth Clarke, Senior Policy Planner with the Invercargill City Council, in which he highlighted that industrial activities provided for in the Enterprise Zone of the Operative District Plan had been split in two, with a distinction between light and heavy industry. Appendix IX of the Proposed Plan provided a list of heavy industry, and those industries not listed are by default light industry. Mr Clarke advised the Committee that Appendix IX contained several errors and omissions and the purpose of the Variation was to rectify these. He also advised that 12 submissions had been lodged to the Variation, most of which were in support.

### **Submitters Attending the Hearing**

#### Blue River Dairy LP

Luke McSoriley, a resource management planner with Opus International, presented written evidence in which he described that any expansion of the company’s operations in Nith Street would be a non-complying activity under Variation 5. Given the small scale of the Blue River Dairy operation he considered that inappropriate, particularly taking into account the uncertainty posed by Section 104D of the RMA. In his view dairy processing should be removed from Appendix IX; or amended to apply only to sites greater than 1ha; or permitted activity status given to the operation on the Nith Street site.

Jamie Priemus, the HR and HSE Manager of Blue River LP, also presented written evidence to the Committee in relation to Variation 5, explaining that the company undertook small scale dairy processing specialising in sheep’s milk and the export of whole milk powder. Mr Priemus highlighted that legislative and market access requirements necessitated regular upgrading of plant and new building works, and this must be undertaken with minimal delay. He opposed the inclusion of dairy processing as a heavy industry and the zoning of the site as Industrial 1 because it would result in delays in undertaking essential works, placing potential investment at risk.

In reply to questions from the Committee, Mr Priemus described options for expansion on the site, noting that additional warehouse space was needed. Mr Clarke advised the Committee that such warehousing would fall within the definition of heavy industry by virtue of it being associated with the dairy processing activity. However, he also noted that the staff recommendation was to enable warehousing to be permitted within the Industrial 1 Zone.

Mr Priemus also outlined work being undertaken on the site to reduce noise, particularly associated with the vibration unit on the drier. It was of concern to him that work to reduce noise may require resource consent approval.

## **Material Tabled at the Hearing**

### Department of Corrections

Stephanie Steadman, Senior Advisor RMA with the Department of Corrections, forwarded written evidence to the hearing summarising the evidence previously given to the Committee at the hearing of 28 April 2015. She went on to state that she did not accept that "Community Corrections Facilities" fitted within the definition of "Office Activities". In her view the activities of the Department of Corrections were wider than those associated with offices. She referred to the Operative District Plan which explicitly included reference to "periodic detention centres and probation offices" as part of the definition of "commercial activities" and considered the Proposed District Plan also required some explicit recognition of the activities of the Department.

Ms Steadman in her statement then referred to the rules applying to Office Activities, noting that these are permitted in the Business 1 and 2 Zones and a discretionary activity in the Business 3 and 4 Zones. She also noted that Office Activities were not provided for in the Business 3 and Industrial 1 Zones, but in her view those are the zones best suited for "Community Corrections Facilities".

## **MATTERS REQUIRING PARTICULAR CONSIDERATION**

### **Building Improvement Centres**

Bunnings Ltd in Submission 74.1 sought the inclusion of "Building Improvement Centres" as an activity in its own right, as the company considered that their retail outlets do not fall neatly within the definition of retail sales.

Mrs Devery in her Section 42A Report disagreed, stating the Proposed District Plan does not distinguish between the different type of products that may be sold in retail stores and that it was not necessary to separate building improvement centres from other retail activities. However, in Report 36 Business and Industrial Zones, Mrs Devery concluded in response to Submission 28.1 Harvey Norman Properties (NZ) Ltd and Harvey Norman Stores (NZ) Pty Ltd that trade related retail could be appropriate within the Business 3 Zone and she recommended it be provided for as a permitted activity in that zone. Arising from that, Mrs Devery also concluded that a detailed definition of "trade related retail" would be necessary to support this. In the same report, in response to Submission 74.4 Bunnings Ltd, she expressed the view that the definition of "trade related retail" would cover "building improvement centres" as well.

The Committee noted the definition recommended to be included in the Proposed Plan read as follows:

**Trade Suppliers** means a business engaged in sales to business and institutional customers and may also include sales to the general public, and wholly consists of suppliers of goods in one or more of the following categories:

- Automotive and marine suppliers
- Building suppliers
- Catering equipment suppliers
- Farming and agricultural suppliers
- Garden and patio suppliers
- Hire premises, except hire or loan of books, video, DVD and other similar home entertainment items

- Industrial clothing and safety equipment suppliers
- Office furniture, equipment and systems suppliers”

Having regard to the submissions of Bunnings Limited and the Harvey Norman Group, the Committee concluded that the definition above did not adequately cover the range of products sold by these and similar outlets. The Committee saw benefit in adopting a definition that was inclusive of the examples provided by Bunnings Ltd at the hearing considering the definitions in the District Plan. It therefore adopted the following:

**Trade retail** means the display and sale of the following within any building or part of a building, together with any outdoor display areas on the same site:

- Motor vehicles unless otherwise provided for
- Catering equipment
- Industrial machinery
- Industrial clothing and safety equipment
- Materials associated with the building trade, including supplies for builders, plumbers and electricians
- Home and building display centres
- Farm supplies and farm equipment
- Garden centres, including ancillary cafes, nurseries and landscape supplies
- Hire premises, except hire or loan of books, video, DVD and other similar home entertainment items
- Office furniture, equipment, supplies and systems

including spare parts and accessories ancillary to the above where undertaken on that site.

In the Decisions for the various zones the Committee has determined those zones where this activity is suitable as a permitted activity.

### **Drive-Through Restaurants**

Submission 75.1 McDonald’s Restaurants (NZ) Ltd sought the inclusion of a definition for “drive-through restaurants” and provision of that activity in various zones. The requested definition clearly indicated that food could be consumed from such restaurants either on or off the premises.

The Section 42A Report noted that the Proposed Plan only referred to “drive-through facilities” as part of the rules setting out requirements for parking. On that basis the Report recommended accepting the submission in part by including a definition for “drive-through facilities”.

At the hearing to consider submissions to the Transportation provisions in the Proposed Plan, Matt Norwell a Director of Barker and Associates, advised the Committee by way of a letter forwarded to that hearing:

A "drive-through restaurant" activity, such as McDonald's, is made up of a restaurant whereby customers can eat in or take away (operates as “quick service restaurant”), with an attached drive-through facility for customers to order and collect from their vehicles to take away.

To address this difference in activity, many district plans across New Zealand adopt an activity classification of "drive-through restaurant" (in the business zone sections) which has corresponding and bespoke carparking ratio and queue requirements (in the transportation sections).

In this regard, McDonald's considers that their suggested approach at Section 4 (Definitions) to include a definition for the activity of “drive-through restaurant”, inclusion of this activity in

the Business zone provisions (at Rules 3.23-3.27), and consequent inclusion of a specific car parking ratio and queuing space requirement for "drive-through restaurants" at the Transportation provisions (Table 3.20.1) provides a clear planning regime with regard to "drive-through restaurant" activities to appropriately assess and manage effects.

The Committee agreed that provision should be made in the Proposed Plan for drive-through facilities. It considered that the effects of such an activity were similar to those of a takeaway but differed from the effects of a restaurant where people stayed on the site to consume food. The Committee was of the view that the areas suitable for drive-through facilities and takeaways were more diverse, for example including industrial zones, than those areas suitable for restaurants which the Committee considered should as a permitted activity be confined to commercial centres. In other words, there will be areas suitable for drive-through facilities which are not suitable for restaurants. As a consequence, the Committee preferred an approach that enabled separation of drive-through facilities from restaurants in some cases. The Committee considered it inappropriate to provide for vehicle crossings, hence drive-through facilities, along "pedestrian friendly frontages", yet considered the concept of drive-through restaurants suitable elsewhere in the commercial centres. In contrast, the Committee concluded that drive-through facilities and takeaways were appropriate in industrial areas, but restaurants were not.

Taking the above into account, the Committee has as part of this Decision included a definition of "drive-through facility" and amended the definition of "restaurant" to clarify that it includes "drive-through facility" unless otherwise stated.

### **Definition of "Agriculture"**

The Proposed Plan as notified included the following definition:

**Agriculture:** means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops including, but not limited to:

- (A) Factory farming of poultry, pigs and other species, and feedlots
- (B) Horticulture, hydroponics, seed production, viticulture and forestry
- (C) Bee keeping
- (D) The keeping and/or training of horses

together with associated activities, including shelter planting, amenity plantings, land disturbance, residences, storage buildings, and disposal of waste produced on the site.

The Department of Conservation in Submission 64.35 objected to this definition as being too detailed, requesting that the text end after the word "crops". That submission was opposed by NZAS, Federated Farmers and Ballance Agri-Nutrients. The latter also sought the inclusion of reference to the storage and use of fertiliser.

Mrs Devery in her Section 42A Report considered that a detailed definition was appropriate, and for clarity recommended the inclusion of reference to fertiliser storage and use. Having regard to the submission of the Department of Conservation she agreed that reference to "residences" should be deleted from the definition. Federated Farmers agreed with this recommendation.

The Committee agreed with Mrs Devery that a full definition was required, including a list of the various activities provided for by the definition. However, it acknowledged that in the case of "residences" there was some uncertainty as to their status in some zones, particularly where noise sensitive activities were assigned a different status to "agriculture". The Committee understood that by requiring consent for noise sensitive activities in the Airport Operations Zone, the Industrial 3 and 4 Zones and the Seaport Zone, there was a clear intent that all residences should be subject to that control, including those associated

with agricultural activities. In that regard, arising from the submission of the Department of Conservation, the Committee concluded that residences should be dealt with as a separate activity and not included as part of "agriculture". The Committee noted the support at the hearing by Federated Farmers to this approach.

To provide clarity and certainty, the Committee agreed with Ballance Agri-Nutrients Ltd that the storage and use of fertiliser should be included as part of the definition. The Committee considered this part of the day-to-day operations of a farm that should be recognised by the Proposed Plan. This is also consistent with the approach to the storage of fertilisers in the Hazardous Substances provisions of the Proposed Plan.

The Committee also noted Submission 88.101 of Federated Farmers opposing the definition of "Factory Farming". That submission has been accepted, amending the term to "Intensive Farming". Consequential to that, change is also required to the definition of "Agriculture".

### **Community Corrections Facilities**

The Department of Corrections in Submission 3.2 sought the addition of "Corrections related service" to the definition of Community Services and by way of another submission widening the number of zones within which that activity is permitted.

Mrs Devery in her Section 42A Report considered that government services could fit as part of the definition of "Professional and Personal Services" and as a result the decision sought in the submission was not necessary. For clarity however Mrs Devery recommended an addition to the definition of "Professional and Personal Services" so it reads as follows:

Professional and Personal Services: Means any lawful service, including professional service offered to individuals in return for a fee and which may or may not require a qualification or certification of the provider. This includes business, government, professional, or financial services, as well as activities providing services such as laundry or dry cleaning services, travel agencies, real estate agencies, shoe and clothing repairs and alterations, hairdressers' premises, beauty salons and Totalisator Agency Boards.

The Committee was of the view that there were two issues arising from the submission and the recommendation in the Section 42A Report, being the need for a definition of "Corrections related service" and the extent of the change recommended to the definition to "Professional and Personal Services".

In considering this matter the Committee was mindful of the description of activities undertaken on the sites occupied by the Department of Corrections, as including offices, storage of tools and other equipment and a meeting place for offenders undertaking community work. In the Committee's view this did not sit within the domain of the District Plan activity described as "community service". In addition, the Committee saw no difference between what was being described and the activities undertaken at some other offices where workers meet prior to heading out to a site to undertake work. The Committee considered there was no difference in effects between individuals congregating prior to travel to another site to undertake work because they are directed to by the Courts, or where it is part of normal employment conditions, as occurs with a number of tradesmen. With that in mind, Variation 3 included a new definition for "Office Activity".

The Committee noted that the Department of Corrections lodged a submission to Variation No. 3 stating their activities were still not sufficiently provided for. In her statement of evidence forwarded to the hearing considering submissions to the Variation, Ms Steadman stated that there would still be uncertainty with the definitions. She referred the Committee to the definition of "Commercial Activity" in the Operative District Plan which explicitly

recognised the activities of the Department. The Committee concluded that for the avoidance of doubt it would be appropriate to include “Community Corrections Facilities” as part of the definition of “Office Activities”. It also noted that this was consistent with the advice given by Mrs Devery at the hearing.

In the Committee’s view a separate definition of “Community Corrections Facilities” is not required, nor is it appropriate to provide for that activity as of right within zones other than those where Office Activities are permitted. The Committee was mindful of the description given to it by witnesses for the Department of Corrections as to the detailed assessment undertaken to locate a “suitable site”. In particular, Ms Steadman stated community corrections facilities have some unique requirements and in that regard the Committee concluded it is appropriate to rely on the resource consent process should the Department wish to locate activities in other zones. Given that Invercargill could not expect to have more than one or two offices of this type locate in the city, the Committee did not see any justification in the argument that requiring such a consent, or designation, would result in economic hardship or unnecessary delays.

### **Definition of “Height”**

Submitters 52.15 NZ Police, 102.20 Chorus NZ Ltd and 104.19 Telecom NZ Ltd lodged a submission to the definition of “height” requesting antennas, aerials and lightning rods be included in the exclusions from the height calculation.

Mrs Devery in the Section 42A Report referred back to the Section 42A Report No. 19 on Infrastructure where it was recommended that a rule be included in the Proposed Plan enabling antennae attached to buildings to extend above those buildings by 5m or 3.5m in different zones. In her view there was no difference between an antenna and an aerial. Both could vary in size and design, and in her view these should not be exempt from the height rules. She agreed however that the profile of lightning rods was such that an exemption was appropriate. The Committee agreed with that approach.

Mrs Devery in discussing the definition of height expressed concern at the potential scale of some of the exempt structures. The Committee was of a like mind, noting that ventilation shafts, water tanks, elevator lofts, steeples and towers could be of considerable size, giving rise to adverse effects on amenity and shading. The Committee noted that no submission had been lodged opposing the definition and as a consequence Variation 4 was notified to enable the definition to be considered further.

Only two submissions were lodged to Variation No. 4, one in support and one seeking a minor change in wording that was supported in the Section 42A Report. The Committee concluded therefore that the definition provided in the Variation was acceptable to the submitters listed above.

### **Dairy Processing**

Blue River Dairy LP in Submission V3.1 opposed the addition of “dairy processing” and ancillary activities within the Schedule of Heavy Industries as provided for by Variation 5. In both the submission lodged and the evidence presented at the hearing details were provided of the history of the site and the concerns of the company over potential timing and financial difficulties in obtaining future resource consents to alter operations on their site in Nith Street or undertake remedial works to reduce noise levels from its operation.

Luke McSoriley, a resource management planner with Opus International, was of the view that given the small scale of the Blue River Dairy operation dairy processing should be

removed from Appendix IX; or amended to apply only to sites greater than 1ha; or permitted activity status given to the operation on the Nith Street site.

Mr Clarke in his Section 42A Report highlighted that the land subject to this submission had been zoned Industrial 1 given its proximity to residential areas, and that activities provided for in that zone were determined on the basis of their compatibility with the nearby residences. He added that the purpose of the Schedule of Heavy Industries in Appendix IX in the Proposed District Plan was to develop a list of land use activities that have the potential to be noxious or offensive to more sensitive land uses, such as residential activity. While he accepted that heavy industries that operate on a relatively small scale will generally have a lesser adverse effect on the environment, it was his view that the expansion of any existing heavy industries operating in the Industrial 1 Zone in a situation where they benefit from existing use rights, is best assessed and controlled through the resource consent process.

At the hearing considering submissions to Variation 2 on noise, the Committee heard from Clair Hikawai who described issues associated with noise from the Blue River Dairy activities, and how she had installed soundproof batts in the walls of her bedroom in her property in Ettrick Street, given that double glazing had been insufficient to reduce noise to an acceptable level for her from the Blue River Dairy factory. Paul Ellis at the same hearing expressed significant concern at the possibility of increased noise from the site.

Having regard to all of the information before it, the Committee concluded that the size of a business by itself did not determine the extent of any adverse effects generated by it. It is for that reason that the definition of "light industry" was amended to delete reference to site area and hours of operation. As a consequence, it did not consider it sound resource management to provide for activities on the basis of site area.

Based on the matters contained in the Section 42A Report, the evidence of Clair Hikawai and Paul Ellis, and the response to questions from the Committee by witnesses appearing for Blue River Dairy, the Committee was firmly of the view that it was appropriate to provide for dairy processing as a heavy industry. Having regard to the issues arising on the site the Committee did not accept it was appropriate to provide for the activities of the factory by listing them as a permitted activity on that site. The Committee considered the comments from Council advisers at that hearing, and in the Section 42A Report, that any expansion or change of activities on the site that went beyond existing use rights should be considered by way of resource consent. The Committee concluded that future management of the dairy processing operation beyond what was enabled by existing use rights should be managed by way of resource consent conditions rather than a permissive zoning.

Finally, the Committee was of the view that Mr McSoriley's concerns over the uncertainty generated by the resource consent process, both with regard to cost and timing, overstated the situation and the case law applying to Section 104D of the RMA.

In view of our conclusions above, the Committee rejected Submission V3.1 by Blue River Dairy and the various reliefs it sought.

## **SECTION 32 MATTERS**

### **Requirements**

The Committee was advised by Mrs Devery 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 to 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**

Mrs Devery, in her Section 42A Reports, recommended a number of changes to the provisions of the Proposed Plan and assessed these against the provisions of Section 32AA of the RMA. Mr Clarke also recommended changes in his Section 42A Reports and assessed these against the provisions of Section 32AA. For those decisions that reflect the recommendations made by Mrs Devery and Mr Clarke in their Section 42A Reports, the Committee agrees with their assessments and adopts them.

This decision makes a number of amendments to the definitions that differ from the recommendations in Mrs Devery's Section 42A Report. These amendments are as follows:

- A new definition for "Early childhood education and care centre" and amendment to the "Educational Activity" definition.
- An amendment to the definition of "Retail Sale" to recognise Lotto sales and TAB venues.
- A new definition for "Drive-through facility" and an amendment to the definition of "Restaurant".
- An amendment to the definition for "Tavern" to include associated activities such as TAB venues.
- A new definition for "Trade Retail".

### **Early Childhood Education and Care Centres**

The Committee considered that Childhood Education and Care Centres are similar in character and effects to child day care activity, and it is appropriate to provide for them in the same manner, reflecting the approach of the Education Act 1989. Consequential

amendments are necessary to delete the existing definition of “Child Day Care activity” and replace references to this throughout the Proposed Plan with the new definition.

The definition for Educational Activity has also been amended to direct that unless otherwise specifically provided for in a provision, Childhood Education and Care Centres are considered an Educational Activity. This approach will enable the consideration of the effects of these activities to be separated where the effects may differ, such as requirements for and effects of car parking. The amendments are considered to be minor in nature. They will provide greater consistency with the provisions of the Education Act 1989, and remove the ambiguity around where child care activities fall within the Plan. The activity status for such activities will remain the same as the notified Proposed District Plan for both Educational Activities and Child Day Care Activities despite the amendments to the definitions. The amendments are considered an effective and efficient means of giving effect to the Objectives of the Plan. Therefore, it is not considered necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

### Retail Sales

The Committee considers that Totalisator Agency Board venues and Lotto sales have the same effects as retail activities and it is therefore appropriate to group them together under an amended definition for Retail Sales. The amendments are considered to be minor in nature. Aside from requiring additional car parking for staff, the most significant change resulting from grouping TAB venues and Lotto sales with Personal and Professional Services to now grouping them with Retail Sales activity is that these activities will now be permitted in the Business 3 Zone where previously they were a discretionary activity. The activities affected by the amendments are very specific. There are only ever likely to be a limited number of TAB venues in the District, and most of those sites are likely to be located in suburban areas, as they are now. It is unlikely that permitting TAB venues in the Business 3 Zone will undermine the approach taken in the Proposed District Plan to reinforcing the primacy of the CBD as Invercargill’s main retailing area. The amendments are considered an effective and efficient means of giving effect to the Objectives of the Plan. Therefore, it is not considered necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

### Restaurants and Drive-through facilities

After considering a submission by McDonald’s Restaurants (NZ) Ltd, the Committee agreed that provision should be made in the Proposed Plan for drive-through facilities, though it considered that the effects of such an activity differed from the effects of a restaurant where people stayed on the site to consume food. Noting that there will be areas suitable for drive-through facilities that may not be suitable for restaurants, the Committee preferred an approach that enabled separation of drive-through facilities from restaurants. These amendments are considered to be moderate in nature.

By introducing a definition for “drive-through facility” and providing for such activities as distinct from restaurant activities in some zones, the Plan has restricted the ability to establish such activities as of right in some parts of the District, where previously they would have been permitted. This means that a drive-through facility, regardless of whether or not it is stand alone or attached to a restaurant, would require resource consent as a discretionary activity in the Business 1 and Business 2 Zones. Although an additional cost would be incurred by developers seeking to establish such activities, requiring resource consent will ensure that the pedestrian friendly nature of the environment in these zones is not compromised. It is noted that all the existing drive-through facilities in Invercargill are located outside of the Business 1 and 2 Zones. The nature of these more pedestrian

oriented zones means that this pattern of development is likely to continue in the future, and the likelihood of drive-through developments establishing in these zones is low.

The risk of not adopting the approach the Committee has taken is that the rule framework would not be fully achieving the objectives for the Business 1 and 2 Zones of maintaining and enhancing the amenity values of those zones. In the view of the Committee, the risk of not acting outweighs the risks of introducing the “drive-through facilities” definition and amending the definition for “restaurants”.

### Taverns

Similar to the amendment made to the definition of retail sales, an amendment has been made to the definition for taverns to account for TAB venues that are commonly found within existing taverns in the District. As with the analysis above, the amendments to the definition are considered to be minor in nature as they are simply recognising and providing for an activity that is anticipated and accepted as appropriate within the context of a tavern environment. Therefore, it is not considered necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

### Trade Retail

The Committee saw benefit in adopting a new definition for Trade Retail activities to provide for activities that did not need a central location but that would be suitable as a permitted activity in zones where their presence is not likely to compromise the viability of the different business centres. The merits of the introduction of such a definition have already been assessed in accordance with the requirements of Section 32 as part of Mrs Devery's Section 42A Report 36 – Business and Industrial Zones.

However, the definition that the Committee has adopted differs slightly from that recommended by Mrs Devery to ensure the range of products sold by these outlets is adequately covered. These amendments are considered minor. The intent of the provisions has not changed as a result of the amendments to the definition, but it is now clearer to Plan users what land uses the definition and its related provisions cover. Therefore, it is not considered necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

Dated at Invercargill this 11<sup>th</sup> 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
<b>SUGGESTED NEW DEFINITIONS</b>	
<p><b>74.1 Bunnings Ltd</b>            Definition of “Building Improvement Centre”            The submitter considers that the Plan should provide for “Building Improvement Centres” as an activity in its own right and that these centres do not fall neatly within the definition of retail sales. The submitter considers a definition of “building improvement centres” will ensure that the Bunnings activity is adequately provided for. Insert a definition of “Building Improvement Centres” as follows:</p> <p>Means any premises used for the storage, display and sale of goods and materials used in the construction, repair, alteration and renovation of buildings and includes builders supply and plumbing supply centres and home and building display centre, garden centres and outdoor nurseries.</p> <p>AND amend the definition of retail sales to exclude “Building Improvement Centres”</p> <p><b>FS46.43 Leven Investments Ltd and others support submission 74.1</b> and consider that these should be provided for within the Business and Industrial Zones.</p>	<p><b>Decision 32/1</b>            This submission is accepted in part.</p> <p><b>Amendments to District Plan</b></p> <p>(i) Include the following definition in the Proposed Plan:</p> <p><b>Trade retail:</b> Means the display and sale of the following within any building or part of a building, together with any outdoor display areas on the same site:</p> <ul style="list-style-type: none"> <li>• Motor vehicles, unless otherwise provided for</li> <li>• Catering equipment</li> <li>• Industrial machinery</li> <li>• Industrial clothing and safety equipment</li> <li>• Materials associated with the building trade, including supplies for builders, plumbers and electricians</li> <li>• Home and building display centres</li> <li>• Farm supplies and farm equipment</li> <li>• Garden centres, including ancillary cafes, nurseries and landscape supplies</li> <li>• Hire premises, except hire or loan of books, video, DVD and other similar home entertainment items</li> <li>• Office furniture, equipment, supplies and systems including spare parts and accessories ancillary to the above where undertaken on that site.</li> </ul> <p>(ii) Amend the definition of Retail Sales as follows:</p> <p><b>Retail Sales:</b> Means the direct sale or hire to the public from any site, and/or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, <u>including Lotto sales and Totalisator Agency Board venues, <sup>1</sup>but excludes recreational activities</u> supermarkets and <u>sale of motor vehicles sales.</u> <u>Unless otherwise provided for, Retail Sales includes takeaway food premises, and nursery activities.</u></p>

<sup>1</sup> Decision 32/19

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
	<p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. As discussed on pages 6 - 7 of this Decision, the range of activities undertaken by Bunnings Ltd and similar outlets does not fit clearly within the definition of retail, and needs to be recognised as a separate activity.</li> <li>2. The Decisions considering submissions to specific zones set out the status of trade retail activities in those zones, where appropriate.</li> </ol>
<p><b>75.1 McDonald’s Restaurants (NZ) Ltd</b>            Definition of “Drive-through Restaurants”            The submitter considers that the Plan should provide for “Drive-through restaurants” as an activity in its own right and that these activities have different requirements and characteristics from other types of restaurants that do not include a drive-through component. Insert a definition of “Drive-through restaurants” as follows:</p> <p>Means any land and/or buildings on or in which food and beverages are prepared, served and sold to the public for consumption on or off the premises and the customers have the option of ordering and receiving foods while remaining in their vehicles. An ancillary café and/or playground may be included.</p> <p>AND amend the definition of “Restaurant” to exclude drive-through restaurants.</p>	<p><b>Decision 32/2</b>            This submission is accepted in part.</p> <p><b>Amendments to District Plan</b></p> <ol style="list-style-type: none"> <li>(i) Include a definition of “Drive-through facility” as follows:               <p><u><b>Drive-through facility:</b> Means any land or building on or in which food and beverages are prepared, served and sold to the public for consumption off the premises and which are ordered and received while customers remain in their vehicles.</u></p> </li> <li>(ii) Amend the definition of "restaurant" as follows:               <p><b>Restaurant:</b> Means land and buildings where food is prepared and sold to the public primarily for consumption on the premises and may include incidental sale of liquor and drinks. <del>This includes Cafes, tearooms, and coffee bars and unless otherwise stated drive-through facilities are included. Part of the trade of the premises may be derived from the sale of food for consumption off the premises.</del></p> </li> </ol> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. As discussed on page 7 of this Decision, and having regard to their effects, it is appropriate to differentiate between a drive-through facility and a restaurant.</li> <li>2. The Decisions considering submissions to specific zones set out the status of drive-through facilities in those zones, where appropriate.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>105.12 ICC Environmental Health and Compliance Services</b>            Definition to add "Urban Area". The submitter notes that the Council's Keeping of Animals, Poultry and Bees Bylaw definition of "urban areas" refers to the District Plan definition of urban areas. In the Operative District Plan the definition did not include Otatara. The submitter would like the Proposed District Plan to define urban area and include Otatara within that area to ensure that the Bylaw can be readily enforced.</p>	<p><b>Decision 32/3</b>            This submission is rejected.</p> <p><b>Amendments to District Plan</b>            None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1 The term "urban areas" is not used within the Proposed District Plan.</li> <li>2 It is not the role of the District Plan to provide definitions for Council Bylaws.</li> </ol>
<p><b>64.36 Department of Conservation</b>            The submitter notes that there is no definition of wetland in the Plan but that the biodiversity section contains an objective, policy and rule that aim to protect the natural character of wetlands. Insert a new definition of "wetland":</p> <p>Wetland – means naturally occurring permanently or intermittently wet areas, shallow water and land water margins that support plants and animals that are adapted to wet conditions. This definition excludes wet pastures where water temporarily ponds after rain or pasture containing small patches of rushes (juncus species).</p>	<p><b>Decision 32/4</b>            This submission is accepted.</p> <p><b>Amendments to District Plan</b>            Include a definition of "wetland" in the Proposed Plan as follows:</p> <p><b>Wetland:</b> Means naturally occurring permanently or intermittently wet areas, shallow water and land water margins that support plants and animals that are adapted to wet conditions. This definition excludes wet pastures where water temporarily ponds after rain or pasture containing patches of rushes (juncus species).</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. "Wetland" is defined in the RMA and the Southland Regional Policy Statement using the first sentence above.</li> <li>2. The inclusion of the last sentence will aid Plan users when assessing land use and subdivision developments against the Objectives and Policies of the Plan. For clarity the word "small" has been deleted from the suggested definition.</li> </ol>
<b>SPECIFIC DEFINITIONS</b>	
<p><b>71.64 NZAS Ltd</b>            Support definition of "Agriculture". Retain definition of "agriculture" as notified.</p> <p><b>15.38 Ballance Agri-Nutrients Ltd</b>            Support definition of "Agriculture" in part. The submitter considers that the definition should be expanded to include the storage and use of fertiliser as one of the</p>	<p><b>Decision 32/5</b></p> <ol style="list-style-type: none"> <li>(i) Submission 71.64 NZAS Ltd is noted.</li> <li>(ii) Submission 15.38 Ballance Agri-Nutrients Ltd is accepted.</li> <li>(iii) Submission 64.35 Department of Conservation is accepted in part.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p>“associated activities”. The submitter considers that the storage and use of fertiliser is of similar importance and nature to the associated activities currently included within the definition and is integral to agricultural activities.</p> <p><u>Decision Sought:</u> That Section 3 – Definitions “agriculture” be amended and adopted as follows or any similar amendments to like effect:</p> <p>Means the use of land and buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops including, but not limited to:</p> <p>(A) Factory farming of poultry, pigs, and other species, and feedlots</p> <p>(B) Horticulture, hydroponics, seed production, viticulture and forestry</p> <p>(C) Bee keeping</p> <p>(D) The keeping and/or training of horses</p> <p>together with associated activities, including shelter planting, amenity plantings, land disturbance, residences, storage buildings, <u>the storage and use of fertiliser</u> and disposal of waste produced on the site.</p> <p><b>64.35 Department of Conservation</b> Oppose definition of “Agriculture”. The submitter considers the definition is very detailed and includes activities that may be associated with agricultural land use but could come under other sections of the plan as separate land uses. The submitter suggests the definition is reworded to narrow the scope of what is meant by agriculture. Reword the definition of agriculture as follows:</p> <p>Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops <del>including, but not limited to:</del></p> <p><del>(A) Factory farming of poultry, pigs and other species, and feedlots</del></p> <p><del>(B) Horticulture, hydroponics, seed production, viticulture and forestry</del></p> <p><del>(C) Bee keeping</del></p> <p><del>(D) The keeping and/or training of horses</del></p> <p><del>together with associated activities, including shelter planting, amenity plantings, land disturbance, residences, storage buildings, and disposal of waste produced on the site.</del></p> <p><b>FS2.46 NZAS Ltd</b> oppose Submission 64.35 supporting the more inclusive definition of “agriculture” as notified.</p>	<p><b>Amendments to District Plan</b> Amend the definition of “Agriculture” as follows:</p> <p><b>Agriculture</b> - Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops including, but not limited to:</p> <p>(A) <del>Factory</del> <u>Intensive</u> farming of poultry, pigs and other species, and feedlots</p> <p>(B) Horticulture, hydroponics, seed production, viticulture and forestry</p> <p>(C) Bee keeping</p> <p>(D) The keeping and/or training of horses</p> <p>together with associated activities, including shelter planting, amenity plantings, land disturbance, <del>residences</del>, storage buildings, <u>the storage and use of fertiliser</u> and disposal of waste produced on the site.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>As discussed on pages 7 and 8 it is appropriate to retain a detailed definition of "agriculture" but uncertainty over the status of "residences" requires an amendment to the definition and associated rules.</li> <li>The storage and use of fertiliser is part of the normal operations of a farm and it is appropriate to avoid any uncertainty and include reference to this in the definition.</li> <li>Reference to "factory farming" is amended as a consequence of Decision 32/13.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>FS4.38 Federated Farmers</b> oppose Submission 64.35 noting that the amendment sought in Submission 64.35 would capture cat and dog breeders and other companion animal owners.</p> <p><b>FS9.6 Ballance Agri-Nutrients Ltd</b> oppose Submission 64.35 expressing concern that the suggested amendments would make the definition too narrow, but also that it would be open to various interpretations. The further submitter considers that the definition in the Proposed Plan is usefully detailed yet not unwieldy.</p>	
<p><b>65.118 ICC Environmental and Planning Services</b> Support definition of “Bar” in part. The submitter notes that the definition refers to an incorrect statute. Replace “Sale of Liquor Act 2012” with “Sale and Supply of Alcohol Act 2012”.</p>	<p><b>Decision 32/6</b> This submission is accepted.</p> <p><b>Amendments to District Plan</b> Amend definition of “Bar” to read as follows:</p> <p><b>Bar:</b> Means any premises which is used principally for the sale, supply or consumption of liquor on the premises and which has an on-licence under the <del>Sale of Liquor Act</del> <u>Sale and Supply of Alcohol Act 2012</u>.</p> <p><u>Reason:</u> The amendment corrects an inaccuracy.</p>
<p><b>87.56 Transpower NZ Ltd</b> Supports the definition of “Building”. The submitter seeks to ensure that all rules applying to the National Grid Yards and Corridors apply to buildings and structures. Retain as notified.</p> <p><b>102.19 Chorus NZ Ltd and 104.18 Telecom NZ Ltd</b> Support definition of “Building”. Retain as notified.</p> <p><b>52.14 NZ Police</b> Support definition of “Building” in part. The submitter supports the use of the definition in the Building Act for “building” and also supports the included exceptions, particularly (B) for structures less than 10m<sup>2</sup> in area and two metres in height. However, the submitter notes that most of their equipment buildings are 2.4m in height and seeks that this be amended accordingly.</p>	<p><b>Decision 32/7</b></p> <p>(i) Submissions 87.56 Transpower NZ Ltd, 102.19 Chorus NZ Ltd and 104.18 Telecom NZ Ltd are noted.</p> <p>(ii) Submission 52.14 NZ Police is rejected.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Three of the submitters support the definition and seek no change to it.</li> <li>2. The rules that apply to the National Grid Yards and Corridors are considered in Decision 19 Infrastructure and beyond the scope of this Decision.</li> <li>3. Buildings and other structures in excess of 2 metres can have adverse effects on the environment that may need to be assessed by way of resource consent, particularly when located on or close to property boundaries.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>3.2 Department of Corrections</b> Support definition of “Community Service” in part. The submitter suggests that the definition of “community service” be amended to include community services offered by the government as follows:</p> <p>Means a place where services are offered that are volunteered or operated on a non-profit basis by individuals or an organisation <u>or the government</u> to benefit a community or its institutions e.g. charity shops operated by Salvation Army, Habitat for Humanity, Red Cross, <u>Corrections related service</u> etc.</p>	<p><b>Decision 32/8</b> This submission is accepted in part.</p> <p><b>Amendments to District Plan</b> Amending the definition of “Office Activity” as introduced in Variation No. 3 to read:</p> <p><b>Office Activity</b> – Means the use of a building for the purposes of administration, consultation, or management of business transactions and includes the personal service elements of these activities offered to consumers or clients where visits by members of the public are accessory to the main use. This includes, but is not limited to:</p> <p>...</p> <p>(d) <u>Administrative and non-custodial services of the Department of Corrections</u></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. As set out on page 7 of this Decision, the activities on sites used by the Department of Corrections do not fit with the intent of the definition of “community service”.</li> <li>2. Administrative and non-custodial services of the Department of Corrections give rise to the same effects as office activities and should be provided for on the same basis.</li> </ol>
<p><b>78.2 Ministry of Education</b> Support definition of “Communal Activity” in part. The submitter would like to include schools to this definition as schools are often used outside school hours by people.</p> <p><u>Decision Sought:</u> Amend the definition of “Communal Activity” by removing the exclusion of school sites, and education activity.</p>	<p><b>Decision 32/9</b> This submission is accepted in part.</p> <p><b>Amendments to District Plan</b> Amend the definition of “communal activity” as follows:</p> <p><b>Communal Activity:</b> Means any activity carried out on land or in buildings where people gather for meetings, social, cultural or religious ceremonies and socialising including, but not limited to, <u>sports clubs, movie theatres, night clubs, video arcades gaming centres</u> and churches etc. This also means activities carried out on land or within buildings where people pay to watch sports, displays or other such activities. Communal activity includes, but is not limited to, ancillary sales of food, beverages and other retail items associated with the activity or event, <u>but Communal activity excludes such activities on reserve land and school sites, and any such use associated with any residential activity, education activity, day care activity, commercial activity, recreation activity</u> and commercial recreation activity.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
	<p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Schools are often used outside normal school hours for activities that are not related to educational activities and that would otherwise be considered communal activities. If these activities are excluded from the definition on reserve land and school sites, there is no alternative definition that could be used to determine the activity status.</li> <li>2. A number of other minor amendments are made to the definition to clarify its intention and to update some of the activities referred to within the text. These changes do not affect the overall definition.</li> </ol> <p>It should be noted that the above amendments also incorporate amendments made by Decision 29/7.</p>
<p><b>53.86 NZ Transport Agency</b>            Oppose definition of “Contiguous Ownership”.            The submitter considers the intention of this definition is unclear. It may mean land that is held within the same Certificate of Title, and if so, this should also be included in the definition.</p> <p><u>Decision Sought:</u> Amend the definition of Contiguous Ownership to refer to land that is held in the same Certificate of Title.</p>	<p><b>Decision 32/10</b>            This submission is accepted in part.</p> <p><b>Amendments to District Plan</b>            Amend the definition of “Contiguous Ownership” as follows:</p> <p><b>Contiguous Ownership:</b> Means ownership of contiguous parcels of land that cannot be separately disposed of without <del>a consent to subdivide</del> <u>Council approval</u>. Land shall be regarded as contiguous with other land notwithstanding that it may be separated from the other land by a road, railway, drain, river or stream.</p> <p><u>Reason:</u>            The term “contiguous ownership” is used in the Proposed District Plan in relation to density of development. The inclusion of the words “without a consent to subdivide” would imply that land in contiguous ownership is just properties held within a Certificate of Title. The term should refer to land that cannot be separately disposed of “without Council approval”. These types of situations will include subdivision, or where there are consent notices on the Certificates of Title requiring that the properties be held together or where buildings may be built across boundaries.</p>
<p><b>78.1 Ministry of Education</b>            Support definition of “Educational Activity” in part.</p>	<p><b>Decision 32/11</b>            This submission is accepted in part.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p>The submitter suggests that a few extra terms be included in the definition and “kohanga reo” be removed as follows:</p> <p>Means... secondary school, <u>early childhood education centres, <del>kohanga reo</del>, language schools, learning centre and tertiary education facility, <del>health, social service and medical services (including dental clinics and sick bays)</del></u></p>	<p><b>Amendments to District Plan</b></p> <p>(i) Amend definition of “Educational Activity” as follows:  <b>Educational activity:</b> Means the use of land and buildings for the provision of regular instruction, teaching, learning or training at state, private or integrated facilities, together with any associated boarding activities, and includes ancillary administrative, recreational, cultural, car parking, and retail facilities <u>and support facilities (including ancillary health, social, and medical services)</u>. This includes, but is not limited to, any primary school, intermediate school, secondary school, <del>kohanga reo</del>, language schools, learning centre and tertiary education facility, <u>and unless otherwise provided for also includes early childhood education and care centres.</u></p> <p>(ii) Include a new definition of “Early childhood education and care centre” as follows:  <b>Early childhood education and care centre:</b> Means <u>premises used regularly for the education or care of three or more children (not being children of the persons providing the education or care, or children enrolled at a school being provided with education or care before or after school) under the age of six by the day or part of a day.</u></p> <p>(iii) Replace the term “Child Daycare activity” with “Early childhood education and care centre” as appropriate throughout the Proposed Plan.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Not all health, social service and medical services (including dental clinics and sick bays) are educational facilities. However, it is accepted that educational activities offer a number of ancillary services such as careers advisors, sick bays and dental clinics. If health, social services and medical services are to be acknowledged within the definition of educational activity then these should be ancillary to the educational purpose of the site,</li> <li>2. “Early childhood education centres” are similar in character and effects to “Child Day Care activity”. The Education Act 1989 provides for them collectively as <u>Early childhood education and care centres</u> and subject to a minor change adoption of that definition is consistent with the objectives of the Proposed Plan. It is appropriate consequential to that to replace this term for “Child Daycare activity” where it occurs throughout the Proposed Plan.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>101.8 NZ Fire Service Commission</b> Support definition of “Essential Services”. Retain as notified.</p>	<p><b>Decision 32/12</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> The submitter supports the definition and seeks no change to it.</p>
<p><b>88.101 Federated Farmers</b> Oppose definition of “Factory Farming”. The submitter considers the term is subjective and emotionally-loaded and has no place in a district planning document. Delete the term “factory farming” from the District Plan and replace it with “intensive farming”, with the following definition:  Most species of animals farmed in New Zealand (such as cattle, sheep, deer, and alpacas) are usually farmed “extensively”, meaning that they live outdoors and are free to range within a fenced-in area.  Pigs, layer hens, and meat chickens are farmed using various systems in New Zealand. These may include “intensive” systems, such as cages for layer hens, crates/stalls for pregnant pigs or those with piglets, and barns for meat chickens. Intensive farming involves confinement at high stocking rates for long periods beyond the productive capacity of the land over which it is carried out.</p>	<p><b>Decision 32/13</b> This submission is accepted in part.</p> <p><b>Amendments to District Plan</b></p> <p>(i) Amend definition of “Factory Farming” as follows:  <b>Factory Intensive Farming:</b> Means the use of buildings for the intensive production of livestock or vegetable matter which is not dependent on the fertility of the soils on the site.</p> <p>(ii) Replace references to “factory farming” with “intensive farming” throughout the Proposed Plan.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Amending the title of the activity provides a more user-friendly description.</li> <li>2. The alternative definition suggested by the submitter is wordy and complex. It is explanatory, rather than matter-of-fact. It also has a broader focus than the definition in the Proposed District Plan, which is focused on the use of buildings for the intensive production.</li> <li>3. Intensive farming as defined by the submitter refers to farming practices that could also be carried out outside of buildings, and that is not the intention of the definition.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>3.1 Department of Corrections</b> Supports definition of “Habilitation Centre”. Retain.</p> <p><b>34.9 Silver Fern Farms Ltd</b> Support definition of “Heavy Industry”. However, as a separate submission point the submitter has suggested changes to the terminology used in Appendix IX Schedule of Heavy Industries.</p>	<p><b>Decision 32/14</b> These submissions are noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> These particular submissions support the Plan provisions and seek no change to them.</p>
<p><b>52.15 NZ Police</b> Oppose definition of “Height” in part. The submitter considers that antennas, aerials and lightning rods should be included in the exclusions from the height calculation as follows:  Provided that <u>antennas, aerials and lightning rods</u>, chimneys, ventilation shafts, water tanks, elevator lofts, steeples, towers, dormer windows and similar parts of a building may be excluded from the height calculation.</p> <p><b>102.20 Chorus NZ Ltd and 104.19 Telecom NZ Ltd</b> Support definition of “Height” in part. The submitter believes that antennas, aerials and lightning rods should be included in the exclusions from the height calculation.</p>	<p><b>Decision 32/15</b> These submissions are accepted in part.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. As discussed on pages 8 and 9 of this Decision, antennas and aerials can be of such a size as to give rise to adverse effects, and while there are technical reasons to allow them to extend above buildings it is appropriate to impose a limit on their extent.</li> <li>2. Lightning rods are of a small diameter and it is appropriate to exempt them from the height limit. That has been provided for in the revised definition of height introduced to the Proposed Plan by Variation No. 4.</li> </ol>
<p><b>7.2 Southern District Health Board</b> Support definition of “Hospital Activity”. Retain.</p>	<p><b>Decision 32/16</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> The submitter supports the definition and seeks no change to it.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>90.32 H W Richardson Group Ltd</b> Oppose definition of “Light Industry”. The submitter objects to the restrictions on the size of lots and the hours of operation. Amend the definition of “light industry” as follows:</p> <p>Means any industry not listed in Appendix IX and which: (A) <del>Which operates between the hours of 7.00 am to 10.00 pm and</del> (B) <del>Is situated on a site of less than one hectare</del></p> <p>This includes any ancillary retail sales, any associated maintenance, any public display or tour operations within the land or premises, and associated offices and staff facilities.</p> <p><b>FS24.17(a) Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd</b> support Submission 90.32 noting that the rules relating to the size of a site and hours of operation are not appropriate in the definition. They consider that it fails to recognise that many light industries need to be operational 24/7.</p> <p><b>FS46.44 Leven Investments Ltd and others</b> support Submission 90.32 stating the restrictions on size of lots and hours of operation are unnecessary.</p>	<p><b>Decision 32/17</b> This submission is accepted.</p> <p><b>Amendments to District Plan</b> Amend the definition of “Light Industry” as follows:</p> <p><b>Light Industrial Industry:</b> Means any industry not listed in Appendix IX and which: (A) <del>Which operates between the hours of 7.00 am to 10.00 pm and</del> (B) <del>Is situated on a site of less than one hectare</del></p> <p>This includes any ancillary retail sales, any associated maintenance, any public display or tour operations within the land or premises, and associated offices and staff facilities.”</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The clauses of concern to the submitter relate to the effects of activities, and such effects are better managed, if at all, by way of rules in the Plan.</li> <li>2. Hours of operation and lot size do not impact on the effects of the industrial activity.</li> </ol>
<p><b>58.9 Donald Moir</b> Oppose definition of “Net Site Area”. The submitter believes the wording should be amended to avoid any confusion regarding driveways are included or excluded from site coverage calculations. Amend the definition to read:</p> <p><b>Net Site Area:</b> In relation to a site, means the total area of the site less any area subject to a designation for any purpose, <del>and/or any area contained in the access to the site and/or any strip of land less than six metres in width.</del></p>	<p><b>Decision 32/18</b> This submission is accepted.</p> <p><b>Amendments to District Plan</b> Amend the definition of “Net Site Area” to read:</p> <p><b>Net Site Area:</b> In relation to a site, means the total area of the site less any area subject to a designation for any purpose, <del>and/or any area contained in the access to the site, and/or any strip of land less than six metres in width.</del></p> <p><b>Reason</b> The clause “and/or any area contained in the access to the site” was intended to refer to any right-of-way over another allotment that may be used to access the site. As such, the area comprised within the right-of-way that belongs to the other site is not included within the calculation of the net site area.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>14.2 NZ Racing Board</b></p> <p>Oppose definition of “Retail Sales” in part. The submitter considers that it is unclear under which land use activity Totalisator Agency Board (TAB) venues fall. Section 4 Definitions of the Plan does not clearly address this matter. As a consequence, there is the potential for different interpretations which may result in varying activity status determinations for a TAB in any zone. It is the submitter’s opinion that a TAB should be considered to be a Retail Sale similar to a Lotto shop and other shops because it sells directly to the public and does not require a fee as in the Professional and Personal Services activity and to correct any potential confusion, a TAB should be specifically listed within the definition of Retail Sales activity.</p> <p>The submitter understands that the Council seeks to minimise inclusion of names of individual operators within each activity definition as they may be subject to change at any time. However, they consider that the specific inclusion and naming of TABs will not undermine this approach. This is because the name TAB has been established by way of government legislation (Racing Act 2003); this Act also clearly defines that no other agency/business may undertake the activity of the TAB, so it is a unique activity, and it is unlikely to be readily changed. The submitter notes that the Proposed Plan sometimes names specific operations in the Plan’s definitions as is seen with charity shops operated by Salvation Army, Habitat for Humanity, Red Cross (included in the definition of Community Services). The submitter considers that the naming of TABs could follow a similar approach because the TAB is a unique government business.</p> <p><u>Decision Sought:</u> That the definition of “Retail Sales” be amended to specifically include a TAB (Totalisator Agency Board venue) so that it reads as follows:</p> <p>Means the direct sale or hire to the public from any site, and/or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, <u>and includes a TAB (Totalisator Agency Board venue)</u> but excludes recreational activities, supermarkets and sale of motor vehicles.</p> <p><b>FS1.1 NZ Racing Board</b> support Submission 14.2 and the need to clarify which land use activity a TAB venue falls under, and specifically include TAB within the definition of “Retail Sales”. Either provide the Decision Sought OR include “sports betting agency” in the definition of “Retail sales”.</p>	<p><b>Decision 32/19</b></p> <p>This submission is accepted.</p> <p><b>Amendments to District Plan</b></p> <p>In addition to Decision 32/1 the definition of Retail Sales is amended as follows:</p> <p><b>Retail Sales:</b> Means the direct sale or hire to the public from any site, and/or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, <u>including Lotto sales and Totalisator Agency Board venues, but excludes ...</u></p> <p><u>Reason:</u></p> <p>Totalisator Agency Board venues have the same effects as retail activities and it is appropriate to group them together.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>81.11 Progressive Enterprises Ltd</b> Support definition of “Supermarket” in part. The submitter suggests that the definition be expanded to encompass all services that are offered by supermarkets as follows:</p> <p><del>Means a building with a trading or retail floor area, greater than 500m<sup>2</sup>, providing mainly for the retailing of groceries and household goods of a minor nature, being organised on a predominantly self-service basis, where a comprehensive range of predominantly domestic supplies and convenience goods and services are sold for consumption or use off premises and includes Lotto shops and pharmacies located within such premises and where liquor licences are held for each premises. Supermarkets are exempt from Local Alcohol Policy.</del></p> <p><b>FS46.45 Leven Investments Ltd and others</b> support Submission 81.11.</p>	<p><b>Decision 32/20</b> This submission is accepted in part.</p> <p><b>Amendments to District Plan</b> Amend definition of “supermarket” as follows:</p> <p><b>Supermarket:</b> Means a building with a trading or retail floor area, greater than 500 square metres <del>providing mainly for the retailing of groceries and household goods of a minor nature, being organised on a predominantly self-service basis where a comprehensive range of predominantly domestic supplies and convenience goods and services are sold on a predominantly self-service basis for consumption or use off premises and includes</del> <u>Lotto shops and pharmacies located within such premises.</u></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The submitter accepted the recommendation to amend the definition of "supermarket" notwithstanding the wording used was not exactly as sought.</li> <li>2. The statement that supermarkets are exempt from the LAP is not accurate or necessary.</li> <li>3. The request made in submissions to the hearing to reduce the minimum size of a supermarket to 200m<sup>2</sup> went beyond the submission lodged and could not be acted on. Notwithstanding that, the Committee considered that in the Invercargill setting 500m<sup>2</sup> was the appropriate standard to adopt.</li> </ol>
<p><b>14.3 NZ Racing Board</b> Support definition of “Tavern” in part. The submitter suggests that the Proposed District Plan does not appear to recognise the presence of ancillary facilities in taverns including TABs. The submitter provides examples of two premises, the Northern Tavern and the Waikiwi Tavern, in which TABs operate as ancillary activities, with a floor area of around 20-25% of the host establishment.</p> <p>In the opinion of the submitter, it would be more accurate and helpful to users of the District Plan if the definition of Tavern is reworded to include a list of activities/facilities which are commonly part of a licensed premises operation. The use of the term “ancillary” indicates that these facilities are to be secondary in all</p>	<p><b>Decision 32/21</b> This submission is accepted.</p> <p><b>Amendments to District Plan</b> The definition of Tavern is amended as follows:</p> <p><b>Tavern:</b> Means any premises licensed as such under the Sale and Supply of Alcohol Act 2012 and used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments, <u>and may include associated facilities such as a bottle store, bistro bar, gaming facilities and a TAB (Totalisator Agency Board) venue.</u></p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p>ways including floor area to the main activity of a tavern on any particular site.</p> <p><u>Decision Sought:</u> The definition of a “Tavern” be amended to include reference to associated facilities so that it reads as follows:</p> <p>Means any premises licensed as such under the Sale of Liquor Act 2012 and used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments and may include associated facilities such as a bottle store, bistro bar, and a TAB (Totalisator Agency Board venue).</p>	<p><u>Reason:</u> Consequential to the amendment of the definition of “Retail sales” in Decision 32/19 an amendment is also required to the definition of “Tavern” to recognise the presence of TAB venues at taverns.</p>
<p><b>26.4 NZ Defence Force</b> Support definition “Temporary Military Training Activities” as it clearly provides for such activities in a manner consistent with the Defence Act 1990, as a separate activity to “temporary activities”. Retain definition of “Temporary Military Training Activities” as notified.</p>	<p><b>Decision 32/22</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> The submitter supports the definition and seeks no change to it.</p>
<b>APPENDIX IX – SCHEDULE OF HEAVY INDUSTRIES</b>	
<p><b>15.40 Ballance Agri-Nutrients Ltd</b> The submitter considers that the term “fertiliser works” is inconsistent with other language used within the schedule and is somewhat ambiguous, and notes that the terms “manufacture” and “storage” are used throughout the schedule and provide a more accurate description of activities.</p> <p><u>Decision Sought:</u> That Section Five – Appendix IX – Schedule of Heavy Industries be adopted as notified with the exception of “fertiliser works”, which Ballance seeks to be amended to “<u>Fertiliser manufacture, processing and storage</u>”.</p> <p><b>34.10 Silver Fern Farms Ltd</b> Support with amendment. The submitter explains that their operations encompass modern integrated slaughter and further processing facilities, far removed from the freezing works of old, and that a change in terminology would better reflect the operation.</p> <p><u>Decision Sought:</u> Retain inclusion of descriptors to include Silver Fern Farms activities in the appendix for the purpose of being included under the definition of</p>	<p><b>Decision 32/23</b> Submissions 15.40 Ballance Agri-Nutrients Ltd, 34.10 Silver Fern Farms Ltd and 5.4 Alliance Group Limited are accepted.</p> <p><b>Amendments to District Plan</b> Include the following definition in the Proposed District Plan:</p> <p><b><u>Meat Processing Facility:</u></b> Means the slaughtering of animals and ancillary activities, which may include activities such as the freezing, and/or packing of meat and by-products and/or the treatment and disposal of waste.</p> <p><b>Reasons:</b></p> <ol style="list-style-type: none"> <li>1. By way of Variation 5 the definitions of “fertiliser works” and “abattoirs and slaughterhouses” have been amended as sought in the submission. The definition applying to fertiliser works is further considered in Decision 32/38.</li> <li>2. The reference to “Dairy Processing” raised by Silver Fern Farms Ltd was not included as part of an original submission and cannot be</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p>Heavy Industrial and therefore a permitted activity in Industrial 3. However, change the terminology to better reflect modern operations. It is suggested that the terms "Abattoir and Slaughterhouse" and "Meat works – killing, freezing and packing" are replaced with "Meat processing facility".</p> <p><b>FS10.1 Open Country Dairy Ltd</b> support in part Submission 15.40 and 34.10 and the amendments to the Schedule of Heavy Industries sought in the submissions, along with inclusion of Dairy Processing. The further submitter considers that these activities fit within the definition of heavy industry. Approve Decision Sought in Submission 15.40 and 34.10 AND include "Dairy Processing".</p> <p><b>5.4 Alliance Group Limited</b> Definitions to add "Meat Processing Plant". The submitter considers that its activities (including the storage and/or treatment of waste) are defined as industrial activities in terms of the proposed definitions. However, with respect to the rules applicable to the industrial zones, the Plan specifies this as being either light or heavy industry. Appendix IX lists meatworks as being defined as heavy industry but limits this to killing, freezing and packing. The removal and treatment of by-products or waste from such activities is not included in this definition. Therefore, the submitter believes that arguably such activities are also non-complying in terms of the industrial provisions of the Plan.</p> <p><u>Decision Sought:</u> Insert a definition of "meat processing plant":</p> <p>Meat Processing Plant – means the slaughtering of animals and associated ancillary activities including the treatment and disposal of waste.</p> <p><b>FS6.8 Alliance Group Limited</b> comment noting that it "requested that amendment to the schedule of heavy industries has not been listed, as outlined in its original submission".</p>	<p>acted on. It was however included in the Proposed Plan by way of Variation 5.</p> <p>3. The term "meat processing facility" better encompasses the types of activities that are carried out within such sites.</p>
<p><b>120.3 Open Country Dairy Ltd</b> The submitter considers that dairy processing should be included in the definition of Heavy Industry. Amend Appendix IX to include Dairy Processing in the Schedule of Heavy Industries defined as permitted activities in the Industrial 3 (Large) Zone.</p>	<p><b>Decision 32/24</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><b>Reason:</b> The term "Dairy Processing" has been included in Appendix IX - Schedule of Heavy Industries by way of Variation 5.</p>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<b>VARIATION 3</b>	
<b>DEFINITION OF “COMMERCIAL SERVICE ACTIVITY”</b>	
<p><b>V2.1 H W Richardson Group Ltd</b> Support. The submitter considers that the wording proposed in the definitions sufficiently provides for office activities and better clarifies “Commercial Service Activity”. Retain the definitions of “Commercial Service Activity” and “Office Activity” as notified as part of the Variation.</p> <p><b>V3.1 R J Cunningham Family Trust</b> Support. The submitter supports the proposed change to the definition of Professional and Personal Service Activity to Commercial Service Activity.</p>	<p><b>Decision 32/25</b> These submissions are noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> These particular submissions support the Variation provisions and seek no change to them.</p>
<b>VARIATION 4</b>	
<b>GENERAL – DEFINITION OF HEIGHT</b>	
<p><b>V1.1 Philip Orr</b> Oppose. The submitter considers that the wording of the definition still leaves it open for a lot of interpretation. The submitter considers the second paragraph of the definition is unclear. The submitter refers to the term “top portion of a gable end or end wall of a mono-pitched roof”, and suggests that this needs reworded to clarify where the “intersecting point” is.</p> <p>The submitter also notes that the definition excludes the rolling height method, and questions how to measure from the existing ground. He has provided sketches of different scenarios.</p> <p><u>Decision Sought:</u> Amend the definition of “height” to include wording similar to the following to clarify where the intersecting point is:</p> <p>Intersection between wall and roof where overhang is less than 750mm. Where overhang is more than 750mm then outer edge of roof is to be used for dimension line.</p>	<p><b>Decision 32/26</b> This submission is accepted in part.</p> <p><b>Amendments to District Plan</b> Amend the definition of “Height” as follows: (B) The top portion of a gable end or the end wall of a mono-pitched roof, <u>including any associated overhanging eaves and/or spouting</u>, for sites in the Residential 1, 1A, 2 and 3 Zones, and the Rural 1 and 2 Zones, provided the maximum height permitted for the zone and any relevant height recession planes are not exceeded by more than 1.5m and the maximum width of the incursion does not exceed 3m. One such incursion is permitted per boundary.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Amendment is required to clarify the definition of “Gable end”.</li> <li>2. The provisions already limit the size of structures that are exempt from height calculations to no more than 1.5m above the maximum permitted height or any relevant height recession plane, and not more than 3m in width. As large overhangs have the potential to generate shading effects beyond the boundary of a property, it is not appropriate to provide an additional exemption.</li> <li>3. The use of the rolling height method, and its associated explanatory diagram, remain as part of the definition of height.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>V2.1 Ballance Agri-Nutrients Ltd</b>  Support. The submitter notes that under the Operative District Plan there is no limit on the size of rooftop structures, and as such there are no mechanisms for managing the adverse effects on neighbouring properties. The submitter considers that the introduction of size limits, along with the definition for the term “gable end” will achieve the objective of maintaining and enhancing amenity values while providing an acceptable level of uncertainty and flexibility.</p> <p><u>Decision Sought:</u> Retain Rule 3.32.11 – Height of structures be adopted as notified or any similar relief with like effect.</p>	<p><b>Decision 32/27</b>  This submission is noted.</p> <p><b>Amendments to District Plan</b>  None required.</p> <p><u>Reason:</u>  The submitter supports the Plan provision and seeks no change to it.</p>
<b>VARIATION 5 – INDUSTRIAL ACTIVITIES</b>	
<b>GENERAL</b>	
<p><b>V5.1 Environment Southland</b>  Support. The submitter supports the option of amending the definition of “heavy industry” and the Schedule of Heavy Industries in Appendix IX to clarify that warehousing activity is considered a light industry and to ensure that the heavy industries definition covers the range of activities possible within the district that would benefit from being physically separated from residential areas.</p> <p><b>V7.1 Barry R Munro</b>  Support. The submitter supports the provisions. Retain provisions as notified in the Variation.</p> <p><b>VFS 2.16 and 2.18 - Blue River Dairy LP</b> opposes Submissions V5.1 and V7.1 and the addition of dairy processing activity to the list of heavy industries.</p>	<p><b>Decision 32/28</b>  These submissions are noted.</p> <p><b>Amendments to District Plan</b>  None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The submitters support the Plan provisions and seek no change to them.</li> <li>2. The further submissions go beyond the issue raised in the original submissions and cannot be acted upon.</li> </ol>
<p><b>V8.1 Amy M Iverson</b>  Support in part. The submitter supports the inclusion of the listed businesses to keep them separated from residential activity. However, the submitter questions the activity status of the ones that have been omitted, and whether they are considered “light industry”. The submitter considers that this loophole needs closing and this be done through tighter regulations.</p> <p>The submitter considers that there is no need to add warehousing to light industrial areas. The submitter does not think they are needed in this area and do not need to be considered.</p>	<p><b>Decision 32/29</b>  This submission is noted.</p> <p><b>Amendments to District Plan</b>  None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The Industrial 1 Zone provides for those industrial activities that have lower impact in terms of the adverse effects they generate, and the low-impact nature of warehousing deems it an appropriate activity to locate within a light industrial zone.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><u>Decision Sought:</u> Add the additional business to the Schedule of Heavy Industries and amend the definitions to exclude “warehousing” from “light industry”.</p> <p><b>VFS 2.19 - Blue River Dairy LP</b> oppose Submission V8.1 and the addition of dairy processing activity to the list of heavy industries.</p>	<p>2. The further submission goes beyond the issue raised in the original submission and cannot be acted upon.</p>
<b>SECTION 4 - DEFINITIONS</b>	
<p><b>V9.1 Todd Meikle</b> Oppose. The submitter objects to the changes as there will be no definition between what and where light and heavy industry may happen, in particular Awarua Industrial land. Both air pollution and noise pollution, roading etc.</p> <p><u>Decision Sought:</u> Remove the status quo, ideally reducing any effects on the public.</p>	<p><b>Decision 32/30</b> This submission is rejected.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. Zoning under the Proposed District Plan takes a more prescriptive approach than the Operative District Plan in directing what activities can establish in each zone and also sets environmental standards that manage the adverse environmental effects of activities occurring within each zone.</li> <li>2. The Proposed Plan does not direct where within each zone any activities that are permitted as of right should be located.</li> <li>3. While Concept Plans apply in some zones, including at Awarua, setting out spatially how the zones are to be developed, they do not direct where each potential permitted activity should be located. They do, however, stipulate vehicle access points, roading layouts and landscaping requirements.</li> <li>4. It is not clear what the submitter’s concerns are with respect to air pollution, noise pollution and roading, and no additional material was submitted to the hearing in response to the Section 42A Report highlighting this.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>V2.1 H W Richardson Ltd</b>  Support. The submitter considers that the proposed definition that excludes transport yards is appropriate. The submitter takes this approach on the grounds that there would be overlap with the definition of “Transport Yard” in the Heavy Industry definition and “Land Transport Facility” which may cause confusion in the administration of the Proposed Plan.</p> <p><u>Decision Sought:</u> Retain the definition of “Heavy Industry” as notified as part of the Variation.</p> <p><b>VFS 2.14 - Blue River Dairy LP</b> support in part Submission V2.1 and the exclusion of “Transport Yards” from the schedule of heavy industries but objects to the retention of the schedule as notified, in particular the addition of dairy processing to the schedule.</p>	<p><b>Decision 32/31</b>  This submission is noted.</p> <p><b>Amendments to District Plan</b>  None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The submitter supports the Plan provisions and seeks no change to them.</li> <li>2. The further submission goes beyond the issue raised in the original submission and cannot be acted upon.</li> </ol>
<p><b>V4.1 Cunningham Group</b>  Support. The submitter supports the exclusion of warehousing activity, service or transport yard activities. The submitter considers the change is enabling and will provide for existing activities within the existing business activities present in the Showgrounds Business Park, and will provide for a wider range of activities in the Showgrounds Business Park in the future.</p> <p>The submitter notes that they have concern about the range of activities permitted in the Industrial 1 Zone, and note that they have submitted against the zoning of the Showgrounds Business Park as being considered within this zone. The submitter notes that while the changes promoted by the Variation amount to an improvement in the number of activities permitted in the Showgrounds Business Park, further changes are still required.</p> <p><u>Decision Sought:</u> That the Variation be adopted as drafted with warehousing activity, service or transport yard excluded from the definition of “Heavy Industry”.</p> <p><b>VFS 2.15 - Blue River Dairy LP</b> support in part Submission V4.1 and the exclusion of “warehousing activity, service or transport yards” from the schedule of heavy industries, and also supports the submitter’s concerns in regard to the limited range of activities permitted in the Industrial 1 Zone.</p> <p>The further submitter objects to the retention of the schedule as notified, in particular the addition of dairy processing to the schedule.</p>	<p><b>Decision 32/32</b>  This submission is noted.</p> <p><b>Amendments to District Plan</b>  None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The submitter supports the Plan provisions and seeks no change to them.</li> <li>2. The further submission goes beyond the issue raised in the original submission and cannot be acted upon.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>V6.1 Ballance Agri-Nutrients Ltd</b> Support. The submitter notes the proposed amendments to the definition seek to simplify it by providing cross-reference to Appendix IX – Schedule of Heavy Industries, and that the definition includes a range of ancillary activities being carried out on a site being utilised for an activity listed within Appendix IX.</p> <p><u>Decision Sought:</u> Retain the definition of “Heavy Industry” as notified as part of the Variation and any similar relief with like effect and any consequential amendments that stem from the relief sought within paragraph 2.2.2(d)(i).</p> <p><b>VFS 2.17 Blue River Dairy LP</b> oppose in part Submission V6.1 objecting to the retention of the schedule as notified, in particular the addition of dairy processing to the schedule.</p>	<p><b>Decision 32/33</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The submitter supports the Plan provisions and seeks no change to them.</li> <li>2. The further submission goes beyond the issue raised in the original submission and cannot be acted upon.</li> </ol>
<b>SECTION FIVE - APPENDICES</b>	
<p><b>V1.1 Silver Fern Farms Management Ltd</b> Support. The submitter supports the addition of the term “Meat Processing Facility” to definitions. The submitter notes that it proposed this term in their original submission as they consider it is a better representation of modern processing facilities. Retain the term “Meat Processing Facility”.</p>	<p><b>Decision 32/34</b> This submission is noted.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reason:</u> The submitter supports the Plan provision and seeks no change to it.</p>
<p><b>V2.2 H W Richardson Ltd</b> Oppose in part. The submitter considers that the updated list of heavy industries is more appropriate, however seeks that “Incinerator Works” be removed from the list, as incinerator works was not included in the list of heavy industries excluded from the Heavy Industries list referred to in the definition of “Light Industrial” activities at the time Plan Change 11 was made operative. This activity is permitted in the proposed Industrial 2A (Lake Street) Zone under the Operative District Plan. The submitter is concerned that with the inclusion of “incinerator works” in Appendix IX, this activity is no longer permitted in the Industrial 2A Zone.</p> <p><u>Decision Sought:</u> Remove “incinerator works” from Appendix IX and amend Rule 3.31.1 accordingly.</p>	<p><b>Decision 32/35</b> This submission is rejected.</p> <p><b>Amendments to District Plan</b> None required.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> <li>1. The Variation wording is consistent with Plan Change 11.</li> <li>2. Removing reference to “incinerator works” in Appendix IX Schedule of Heavy Industries in the Proposed District Plan is not appropriate as this would have the effect of permitting this activity in the Industrial 1 Zone in areas where they may have adverse effects on nearby residential activity.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>V3.1 Blue River Dairy LP</b></p> <p>Oppose. The submitter is concerned at the inclusion of “dairy processing” and ancillary activities within the Schedule of Heavy Industries. The submitter notes that their site has a history of dairy processing, and that under the Proposed District Plan as notified in 2013 their activity would have been considered a permitted activity. The Variation would deem their activity non-complying.</p> <p>Some of the concerns raised by the submitter include financial implications. The submitter notes that the Variation does not recognise the range in scale of dairy processing activities, noting that they believe the scale of their activity is relatively less than other dairy processing factories in Southland. The submitter considers that the scale of effects is significantly less than other dairy processing factories, and varies to the scale of effects that could be created by other “heavy industries” included in the Schedule.</p> <p>The submitter is concerned that the Variation would result in the need for resource consent to extend buildings or expand their dairy plant. The submitter also raises concerns about the Section 32 report.</p> <p>The submitter considers that the Proposed District Plan in adopting a more prescriptive approach to land use has failed to recognise and provide for existing land use activities. The submitter believes the Proposed Plan should recognise and provide for existing industrial activity that has legitimately established under previous District Plan zoning and resource consent decisions. Existing land use patterns, in the opinion of the submitter, should inform both the Variation and Proposed District Plan and be a key consideration in terms of zoning and applicable Plan rules.</p> <p>The submitter does not believe the Variation is of a minor scale.</p> <p><u>Decision Sought:</u></p> <ul style="list-style-type: none"> <li>(i) That dairy processing activity is removed from Appendix IX – Schedule of Heavy Industries; or</li> <li>(ii) The Proposed District Plan is amended to specifically provide for dairy processing and ancillary activities as permitted activities at the Blue River Dairy LP Nith Street dairy factory site; or</li> <li>(iii) Appendix IX – Schedule of Heavy Industries is amended to exclude dairy processing activity on sites up to 1.2ha in size.</li> </ul>	<p><b>Decision 32/36</b></p> <p>This submission is rejected.</p> <p><b>Amendments to District Plan</b></p> <p>None required.</p> <p><u>Reason:</u></p> <p>As discussed on pages 10 – 11 of this Decision:</p> <ol style="list-style-type: none"> <li>1. Having regard to the effects of dairy processing, regardless of its scale or site area, the Committee concluded it is appropriate for it to be classed as a “heavy industry”.</li> <li>2. Any expansion or other changes that occur on the submitter’s site, that go beyond existing use rights, are more appropriately considered by way of resource consent rather than managed by standards applying to different adverse environmental effects.</li> </ol>

## APPENDIX 1 - DECISIONS BY SUBMISSION

SUBMISSION	DECISION
<p><b>V6.2 Ballance Agri-Nutrients Ltd</b></p> <p>Support in part. The submitter supports the proposed amendments to the Schedule of Heavy Industries as it relates to the reference to “Fertiliser works”. As was noted in the submitter’s submission dated 15 October 2013, the submitter considers the term “fertiliser works” is inconsistent with other language used within the schedule and is somewhat ambiguous. However, the submitter notes that it did not intend for activities such as the on-site storage of fertilisers for farming activities to be captured as a heavy industry. The submitter notes that such an interpretation would also be inconsistent with the hazardous substances provisions. To address this, the submitter has suggested that the schedule be amended to identify that on-site storage of fertiliser that is a permitted activity under Rule 3.7.1 is not deemed a Heavy Industry.</p> <p><u>Decision Sought:</u> Amend Section Five – Appendix IX – Schedule of Heavy Industries as follows:</p> <p>Fertiliser manufacture, processing and storage, <u>with the exception of storage included as a permitted activity under Rule 3.7.1.</u></p> <p>Or any similar amendments with like effects together with any consequential amendments that stem from the amendments set out above.</p> <p><b>V10.1 Kylie Fowler</b></p> <p>Oppose in part. The submitter would like an “Oxford comma” to be included in the following Industrial Activities wording to remove any ambiguity in “Fertiliser manufacture, processing and storage”. The submitter considers that the amendment would result in storage being specified separately from processing. The submitter considers that the current proposal could be argued that only “processing <u>and</u> storage” was not allowed.</p> <p><u>Decision Sought:</u> Amend Appendix IX – Schedule of Heavy Industries as follows:</p> <p>Fertiliser manufacture, processing, and storage</p>	<p><b>Decision 32/37</b></p> <p>These submissions are accepted.</p> <p><b>Amendments to District Plan</b></p> <p>Amend Section Five – Appendix IX – Schedule of Heavy Industries as follows:</p> <p>Fertiliser manufacture, processing, and storage, <u>with the exception of storage included as a permitted activity under Rule 3.7.1.</u></p> <p><u>Reason:</u></p> <p>Minor amendments are appropriate to clarify that the temporary storage of fertiliser on farms is accepted farming practice and not intended to require consent as a “heavy industry” and to clarify that fertiliser storage above the allowed limits is a heavy industry where carried out as a separate activity.</p>

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

### SECTION FOUR DEFINITIONS

In this District Plan unless the context otherwise requires:

**Agriculture:** Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops including, but not limited to:

- (A) ~~Factory~~ Intensive farming of poultry, pigs and other species, and feedlots
- (B) Horticulture, hydroponics, seed production, viticulture and forestry
- (C) Bee keeping
- (D) The keeping and/or training of horses

together with associated activities, including shelter planting, amenity plantings, land disturbance, ~~residences~~, storage buildings, the storage and use of fertiliser and disposal of waste produced on the site.<sup>2</sup>

**Bar:** Means any premises which is used principally for the sale, supply or consumption of liquor on the premises and which has an on-licence under the ~~Sale of Liquor Act~~ Sale and Supply of Alcohol Act 2012.<sup>3</sup>

**<sup>4</sup>Commercial Service Activity** - Means any lawful service, including professional service, offered to individuals in return for a fee and which may or may not require a qualification or certification of the provider. This includes, but is not limited to, activities providing services such<sup>5</sup> as laundry or dry cleaning services, hairdressers' premises, and beauty salons. This includes any ancillary retail sales and associated offices and staff facilities but does not include Office Activity.

**Communal Activity:** Means any activity carried out on land or in buildings where people gather for meetings, social, cultural or religious ceremonies and socialising including, but not limited to, sports clubs<sup>6</sup>, movie theatres, night clubs, ~~video arcades~~ gaming centres<sup>7</sup> and churches-etc. This also means activities carried out on land or within buildings where people pay to watch sports, displays or other such activities. Communal activity includes, but is not limited to, ancillary sales of food, beverages and other retail items associated with the activity or event, ~~but excludes such activities on reserve land and school sites, and~~ Communal Activity excludes any such use associated with any residential activity, education activity, day care activity, commercial activity, ~~recreation activity~~<sup>8</sup> and commercial recreation activity.<sup>9</sup>

**Contiguous Ownership:** Means ownership of contiguous parcels of land that cannot be separately disposed of without ~~a consent to subdivide~~ Council approval.<sup>10</sup> Land shall be regarded as contiguous with other land notwithstanding that it may be separated from the other land by a road, railway, drain, river or stream.

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<sup>2</sup> Decision 32/5

<sup>3</sup> Decision 32/6

<sup>4</sup> This definition replaced Professional and Personal Service Activity by way of Variation No. 3

<sup>5</sup> Minor change pursuant to Clause 16(2) of the First Schedule of the RMA

<sup>6</sup> Decision 29/7

<sup>7</sup> Minor change pursuant to Clause 16(2) of the First Schedule of the RMA

<sup>8</sup> Decision 29/7

<sup>9</sup> Decision 32/9

<sup>10</sup> Decision 32/10

Note: Underline indicates additions, strikethrough indicates deletions.

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

~~**Child Day Care activity:** Means any place or premises used (exclusively, mainly or regularly) for the education or care of three or more children under the age of six (not being children of the persons providing the education or care) by the day or part of the day.<sup>11</sup>~~

**Drive-through facility:** Means any land or building on or in which food and beverages are prepared, served and sold to the public for consumption off the premises and which are ordered and received while customers remain in their vehicles.<sup>12</sup>

**Early childhood education and care centre:** Means premises used regularly for the education or care of three or more children (not being children of the persons providing the education or care, or children enrolled at a school being provided with education or care before or after school) under the age of six by the day or part of a day.<sup>13</sup>

**Educational Activity:** Means the use of land and buildings for the provision of regular instruction, teaching, learning or training at state, private or integrated facilities, together with any associated boarding activities, and includes ancillary administrative, recreational, cultural, car parking, and retail facilities and support facilities (including ancillary health, social and medical services). This includes, but is not limited to, any primary school, intermediate school, secondary school, ~~kohanga reo~~, language schools, learning centre and tertiary education facility, and unless otherwise provided for also includes early childhood education and care centres.<sup>14</sup>

~~**Factory Farming:** Means the use of buildings for the intensive production of livestock or vegetable matter which is not dependent on the fertility of the soils on the site.<sup>15</sup>~~

**Gable end:** Means the triangular section of a wall at the end of a pitched roof with a single ridge, occupying the space between the two slopes of the roof.<sup>16</sup>

**Heavy Industry:** Means any industry listed in Appendix IX. This includes any ancillary retail sales and/or warehousing activity, any associated maintenance, any public display or tour operations within the land or premises, and associated offices and staff facilities.

**Height:** Means the vertical distance between the existing ground level and the top of that part of the building immediately above. Refer to the diagram below.

For the purpose of calculating height, account shall not be taken of:

- (A) Lightning rods, chimneys, steeples, towers, turrets, spires, finials, dormer windows, ventilation shafts, water tanks, elevator lofts, solar heating devices and similar architectural features and parts of a building, provided the feature is incorporated within the footprint of the building, and:
  - (a) In the Residential 1, 1A, 2 and 3 zones, the Business 4 Zone, the Rural Zone 4 and 2 zones and the Otatara Zone the maximum height permitted for the zone and any relevant height recession planes are not exceeded by more than 1.5m and the maximum width of the incursion does not exceed 2m. Up to one such incursion is permitted per boundary.
  - (b) In the Business 1, 2, 3 and 36 Zones and the Industrial 1 and 4A Zones the maximum height permitted for the zone and any relevant height recession

<sup>11</sup> Decision 32/11 and replace this term with Early childhood education and care centre: where it occurs through the Proposed Plan as appropriate.

<sup>12</sup> Decision 32/2

<sup>13</sup> Decision 32/11

<sup>14</sup> Decision 32/11

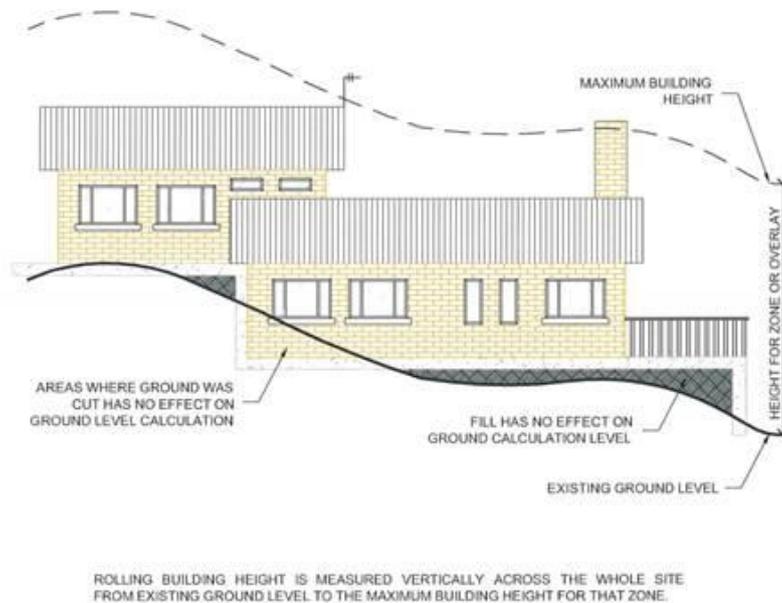
<sup>15</sup> Decision 32/13

<sup>16</sup> Added by way of Variation 4 – Definition of Height

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

planes, are not exceeded by more than 3m and the maximum width of the projection does not exceed 3m. Up to one such incursion is permitted per boundary.

- (c) In all other zones the maximum height permitted for the zone and any relevant height recession planes are not exceeded by more than 5m and the maximum width of the incursion does not exceed 3m. Up to one such incursion is permitted per boundary.
- (B) The top portion of a gable end or the end wall of a mono-pitched roof, including any associated overhanging eaves and/or spouting,<sup>17</sup> for sites in the Residential 1, 1A, 2 and 3 Zones, and the Rural Zone 1 and 2 zones, provided the maximum height permitted for the zone and any relevant height recession planes are not exceeded by more than 1.5m and the maximum width of the incursion does not exceed 3m. One such incursion is permitted per boundary.



### ROLLING HEIGHT METHOD

<sup>17</sup> Decision 32/26

Note: Underline indicates additions, strikethrough indicates deletions.

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

**Intensive Farming:** Means the use of buildings for the intensive production of livestock or vegetable matter which is not dependent on the fertility of the soils on the site.<sup>18</sup>

**Light Industrial Industry**<sup>19</sup>: Means any industry not listed in Appendix IX and ~~which:~~

(A) ~~Which operates between the hours of 7.00 am to 10.00 pm and~~

(B) ~~Is situated on a site of less than one hectare~~

This includes any ancillary retail sales, any associated maintenance, any public display or tour operations within the land or premises, and associated offices and staff facilities (excluding caretaker accommodation)<sup>20</sup>.

**Meat Processing Facility:** Means the slaughtering of animals and ancillary activities, which may include activities such as the freezing, and/or packing of meat and by-products and/or the treatment and disposal of waste.<sup>21</sup>

**Net Site Area:** In relation to a site, means the total area of the site less any area subject to a designation for any purpose, ~~and/or any area contained in the access to the site, and/or any strip of land less than six metres in width.~~<sup>22</sup>

**Office Activity** – Means the use of a building for the purposes of administration, consultation, or management of business transactions and includes the personal service elements of these activities offered to consumers or clients where visits by members of the public are accessory to the main use. This includes, but is not limited to:

- (a) Administrative offices for the purposes of managing the affairs of an organisation, whether or not trading is conducted
- (b) Commercial offices such as banks, insurance agents, or real estate agents where trade (other than that involving the immediate exchange of money for goods or the display or production of goods) is transacted
- (c) Professional offices such as the offices of accountants, solicitors, architects, engineers, surveyors, stockbrokers, and consultants where a professional service is available and carried out. This definition shall not include those activities defined as health care activities centres.<sup>23</sup>
- (d) Administrative and non-custodial services of the Department of Corrections.<sup>24</sup>

**Retail Sales:** Means the direct sale or hire to the public from any site, and/or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, including Lotto sales and Totalisator Agency Board venues,<sup>25</sup> but excludes ~~recreational activities~~ supermarkets and ~~sale of motor vehicles sales.~~ Unless otherwise provided for, Retail Sales includes takeaway food premises, and nursery activities.<sup>26</sup>

**Restaurant:** Means land and buildings where food is prepared and sold to the public primarily for consumption on the premises and may include incidental sale of liquor and drinks. This includes Cafes, tearooms, and coffee bars and unless otherwise stated

<sup>18</sup> Decision 32/13 and replace references to "factory farming" with "Intensive Farming" throughout the Plan

<sup>19</sup> Decision 32/17

<sup>20</sup> Decision 38/45

<sup>21</sup> Decision 32/23

<sup>22</sup> Decision 32/18

<sup>23</sup> Minor change pursuant to Clause 16(2) of the First Schedule of the RMA

<sup>24</sup> Decision 32/8

<sup>25</sup> Decision 32/19

<sup>26</sup> Decision 32/1

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

~~drive-through facilities, are included. Part of the trade of the premises may be derived from the sale of food for consumption off the premises.~~<sup>27</sup>

**Supermarkets:** Means a building with a trading or retail floor area, greater than 500 square metres ~~providing mainly for the retailing of groceries, and household goods of a minor nature, being organised on a predominantly self-service basis~~ where a comprehensive range of predominantly domestic supplies and convenience goods and services are sold on a predominantly self-service basis for consumption or use off premises and includes Lotto shops and pharmacies located within such premises.<sup>28</sup>

**Tavern:** Means any premises licensed as such under the Sale and Supply of Alcohol Act 2012 and used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments, and may include associated facilities such as a bottle store, bistro bar, gaming facilities and a TAB (Totalisator Agency Board) venue.<sup>29</sup>

**Trade retail:**<sup>30</sup> Means the display and sale of the following within any building or part of a building, together with any outdoor display areas on the same site:

- Motor vehicles, unless otherwise provided for
- Catering equipment
- Industrial machinery
- Industrial clothing and safety equipment
- Materials associated with the building trade, including supplies for builders, plumbers and electricians
- Home and building display centres
- Farm supplies and farm equipment
- Garden centres, including ancillary cafes, nurseries and landscape supplies
- Hire premises, except hire or loan of books, videos, DVDs and other similar home entertainment items
- Office furniture, equipment, supplies and systems

including spare parts and accessories ancillary to the above where undertaken on that site.

**Wetland:** Means naturally occurring permanently or intermittently wet areas, shallow water, and land water margins that support plants and animals that are adapted to wet conditions. This definition excludes wet pastures where water temporarily ponds after rain or pasture containing patches of rushes (juncus species).<sup>31</sup>

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<sup>27</sup> Decision 32/2

<sup>28</sup> Decision 32/20

<sup>29</sup> Decision 32/21

<sup>30</sup> Decision 32/1

<sup>31</sup> Decision 32/4

## APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

### APPENDIX IX – SCHEDULE OF HEAVY INDUSTRIES<sup>32</sup>

<p>Acetylene-gas manufacture          Acids manufacture          Aerosol packers and manufacture          Aggregates processing          Aluminium alloy manufacture          Alkali-waste works          Ammonia manufacture          Ammunition manufacture          Animal by-products manufacture          Asbestos manufacture          Asphalt manufacture          Battery manufacture and recycling          Bearing manufacture          Bisuphide of carbon works          Boiler makers          Boiler manufacture          Boiling down works          Bone boiling and crushing          Briquette manufacture          Bulk storage of asphalt, tallow, industrial chemicals and scrap metal          Candle manufacture          Celluloid works          Cement – packing bag, cleaning works          Cement manufacture          Chemicals manufacture          Chlorine works          Coke manufacture          Concrete batching          Dag crushing          Dairy Processing          Detergent manufacture          Distillation of coal, wood and bones          Electroplating and galvanising          Explosive manufacture and storage          Fat rendering          Fellmongering          Fertiliser manufacture, processing, and storage, <u>with the exception of storage included as a permitted activity under Rule 3.7.1.</u><sup>33</sup>          Fibreglass manufacture          Fibrous plaster manufacture          Fireworks manufacture and storage          Fire clay products manufacture          Fish <u>processing, curing and preserving</u><sup>34</sup>          Flax pulping          Flock manufacturing          Fluorine works          Foundry          Fur curing and tanning          Gelatine manufacture          Glass manufacture</p>	<p>Glue manufacture          Gunpowder manufacture          Gypsum manufacture          Hydrochloric acid manufacture          Incinerator works          Industrial chemicals manufacture          Iron works and foundry          Lacquer manufacture          Lead works          Leather tanning          Lime manufacture          Linoleum manufacture          Lucerne dehydration          Manure (artificial) manufacture          Meat Processing Facility          Motor vehicle wrecking and crushing          Natural gas, oil or petroleum distillation or refining          Oxygen – gas manufacture          Paint, varnish, lacquer etc manufacture          Petroleum based products manufacture          Plastics manufacture          Pulp and paper manufacture          Pyridine works          Railway workshops          Rubber goods manufacture          Sandblasting          Sale Stock yards (commercial)          Sewage and sceptic tank sludge storage and disposal          Smelting metals (all types)          Soap manufacture          Solid waste collection, recycling and disposal facilities          Steel works          Stone and mineral crushing          Sulphur-chloride manufacture          Sulphur-dioxide manufacture          Tallow–melting and refining          Tanning and curing of hides and skins          Tar manufacture, refining, mixing          Timber treatment          Turpentine manufacture          Varnish manufacture          White lead manufacture          Wood chipping, sawmilling and manufacture of timber products          Wool scouring          Zinc chloride manufacture          Zinc works</p>
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<sup>32</sup> Amended by Variation 5

<sup>33</sup> Decision 32/37

<sup>34</sup> Consequential to Decision 22/11

Note: Underline indicates additions, strikethrough indicates deletions.