



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Recommendation 28B

Ministry of Education Designations

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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INTRODUCTION

The Hearing to consider the matters set out in this recommendation was held in the Council Chambers of the Invercargill City Council on 2 and 3 March 2015.

In this recommendation, the following meanings apply:

“EIL” means Electricity Invercargill Limited.

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

“MOE” means Ministry of Education.

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

"RMA" means the Resource Management Act 1991.

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 designations and submissions of the submitters referred to.

The Council is required by Section 171 to make a recommendation to the requiring authority where a designation is modified. The Invercargill City Council may recommend the modification be confirmed, with or without further modification, or withdrawn.

The Committee received a Section 42A report on Designations from Liz Devery, Senior Policy Planner with the Invercargill City Council.

At the hearing, Julie McMinn, of Opus International Consultants Ltd, presented evidence on behalf of the Ministry of Education.

MINOR ALTERATIONS

Four submissions were received from the Ministry of Education seeking minor corrections to legal descriptions, street addresses and typographical errors of schools listed in Appendix IV Designations. The changes sought were:

- 78.28 Designation 7 Bluff Community School
Amend legal description as follows:
“Lots 1-12 Block VII DP 225 Campbelltown Hundred”
- 78.29 Designation 17 James Hargest College – Senior Campus
Amend purpose for designation as follows:
“James Hargest College – Senior Campus”
- 78.30 Designation 18 New River Primary School
Amend address to read:
“117 Elizabeth Street and ~~407 Ness Street~~, Invercargill”
And amend legal description to read:
“... Part Lots 1 and ~~Lot~~ 3 DP2205, Lot 8 DP9827”

78.31 Designation 29 Southland Girls' High School

Amend address to read:

"328 and 350 Tweed Street, Invercargill"

These are all minor alterations correcting errors in the list of designations in Appendix IV of the Proposed Plan. The alterations are neutral in effect and can be made under section 181(3) of the RMA. No further consideration needs to be given to these matters and no formal recommendation is required for these designations.

PARTIAL REMOVAL OF A DESIGNATION

Mrs Devery in her Section 42A Report noted that between the Ministry of Education providing a list of their designated sites in 2011, and the Proposed Plan being notified in August 2013, there had been a partial removal of the designation for Te Wharekura O Arowhenua. The site had been subdivided and Lot 1 was to be sold off and Lot 2 containing the school was retained.

The legal description of the designated area requires modifying to reflect this change. The legal description should read as Lot 2 DP 463547.

Section 182 of the RMA requires that the change be made to the designated area and legal description without further formality.

MODIFICATION OF EXISTING DESIGNATIONS

The Minister of Education has 29 sites designated within the Invercargill City District, listed in the Proposed District Plan. The Minister of Education lodged a notice of requirement requesting a modification to these existing designations to change the stated purpose of the designations to "Education Purposes" and to move the title of the school site over into the column entitled "Locality".

The Table in Appendix IV Schedule of Requirements and Designations included in the Proposed District Plan as notified incorrectly showed the Ministry of Education information by retaining the school name in the "Purpose" Column with the term "Educational Purposes", but did not include the school name in the "Locality" column as sought. Following the Hearing, an email was received from Ms McMinn forwarding comments from Carey Clark, Regional Lead Advisor Network, from the Ministry of Education that stated:

"the MOE does not have an issue with the notation of "education purpose – *school name*", assuming that the definition for education purpose reflects MOE expectations".

Arising from this, the Committee concluded, that the "Purpose" for the Ministry of Education designations will read 'Educational Purpose – *school name*'

Section 42A Report

Mrs Devery expressed reservations with the inclusion of the term "educational purposes", as she considered it allowed for a wider range of activities to occur on the school sites, and also expand in terms of the days of the week and times that these sites are used. In her view, these changes have the potential to create adverse environmental effects. Mrs Devery noted, there was no definition of Educational Purpose included in the notice of requirement, and suggested that there should be a definition if the modification was to be accepted. She suggested a definition that is used in District Plans elsewhere in the country as follows:

“Education Purposes” means for the purpose of the above Ministry of Education designations:

Includes the provision of instruction and/or training and may include such uses as early childhood education services, schools, community education, tertiary educational institutions, work skills training centres, outdoor education centres, sport training establishments and out of school care services and includes their ancillary administrative and support facilities (including cultural, recreational, communal or accommodation).

Mrs Devery also noted, no conditions currently apply to the 29 designated sites of the Minister of Education. She stated that whilst the designated sites have historically been used as schools, and the people in the community are sensitised to the effects of the schools' existence, she considered it important that any future development on these sites be considerate of the environment that they are located within and anticipated amenity values.

Mrs Devery suggested that having conditions on the sites gave more certainty, as under the outline plan process the Council does not make the overall decision. A list of recommended conditions was included as an appendix to the report. The conditions referred to height of structures, space around buildings, noise, on-site parking and heritage buildings.

Evidence on behalf of the Ministry of Education

Julie McMinn appeared on behalf of the Ministry of Education and advised the Committee that the original information submitted to the Council included a request for a new purpose for all designations "Education Purposes", as well as a number of minor changes to legal descriptions, addresses and names of some of the schools. She considered that the MOE's requested changes will ensure continuation of education facilities in the District as part of ensuring social and community well-being in a way that is consistent with Part 2 of the RMA. Ms McMinn stressed that the school sites are well established. In her opinion the sites provide a range of social and wellbeing benefits for the local communities and the City.

Ms McMinn explained that the request to amend the purpose of the designations to "Educational Purposes" was to accurately reflect the use of the sites. She accepted that a definition of "education purposes" should be included as part of the designations subject to the inclusion of health, social and medical services as forming support facilities on the sites. She explained these are services provided to the students such as dental clinics. Ms McMinn also considered that the definition will enable the schools to continue to accommodate existing activities and provide the potential for changing community demands for education in the future.

Ms McMinn opposed the inclusion of general conditions as recommended by Mrs Devery, stating it was the preference of the Ministry not to have conditions imposed on existing designated sites where conditions had not previously applied. She stated that the Ministry of Education considered the recommended approach inconsistent with Part 8 of the RMA, and that it would restrict the flexibility provided to the Crown by the designation process. She added that the Ministry does not favour conditions applying to its sites, notwithstanding that conditions had been agreed to in some cases. Such conditions suggested to designations will be considered by the Ministry on an effects site-by-site assessment.

Ms McMinn asserted that the Council did not raise any concerns relating to any particular site, and that the Ministry was unaware of any amenity issues arising from the activities undertaken at school sites. She also noted that no submissions were received, and that consideration of conditions would be appropriate should there be any new sites identified for designation.

Mrs McMinn advised that in terms of any future potential effects that Mrs Devery was seeking to address through the conditions, that under section 176A(3)(f) an Outline Plan is required to include details to avoid, remedy or mitigate any adverse effects on the environment.

Consideration of the Issues

(i) Purpose

While the evidence from Ms McMinn did not give any substantial reasoning for the inclusion of the “Education Purposes” as part of the designation title, there was consensus between the Ministry and Council advisers that a definition of “educational purposes” would be beneficial. The Committee agrees. However, the Committee is of the view that minor amendments are required to the definition recommended by Mrs Devery and Ms McMinn to ensure the definition is clear and user-friendly. This is set out in the recommendation below.

(ii) Conditions

Mrs Devery recommended that conditions be placed on the designations to ensure that effects from the sites are in keeping with the zones they are situated and to ensure potential adverse effects from future developments would not have significant adverse effects on the wider environment. Ms McMinn considered conditions were unnecessary, as the provisions of the RMA in particular sections 176 and 181 ensure adverse effects are addressed through the outline plan process or through alterations to the notices of requirement.

Having considered the issues, the Committee is satisfied that conditions are not required on the designations, given that:

- (a) The Ministry of Education sites are already established, and have been for some time.
- (b) The Notices of Requirement issued by the Minister did not seek to amend the boundaries of the designated sites or increase the scale of effects.
- (c) No concerns have been raised regarding particular sites and there appears to be no amenity issues of concern within neighbourhoods adjoining education sites.

The Committee accepts, the Outline Plan process provides an opportunity to manage activities on education sites. The Minister may by way of formal processes amend a designation and the activities undertaken on the land if they extend beyond those covered by the definition referred to above.

Recommendation

Pursuant to Section 171(2) it is recommended that the following definition be adopted for the purpose of describing the activities provided for on land designated for “education purposes”:

“Educational Purposes” means, for the purpose of the above Ministry of Education designations, the use of land and buildings on the designated site for educational benefit, including the provision of instruction and/or training, and may include such uses as early childhood education services, schools, community education, tertiary educational institutions, work skills training centres, outdoor education centres, sport training establishments and out of school care services and includes their ancillary administrative and support facilities (including health, social and medical services, and cultural, recreational, communal or accommodation).

District Plan Provisions

For information purposes, Appendix 1 attached, lists the designated sites of the Minister of Education, updated to take into account matters outlined above.

Dated at Invercargill this 11th day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface



Councillor Graham Sycamore



Keith Hovell

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Appendix 1 – District Plan Provisions

REQUIRING AUTHORITY	PURPOSE	LOCALITY	LEGAL DESCRIPTION	MAP No.	DESIG. No.
Minister of Education	Educational Purposes – Bluff Community School	39 Bradshaw Street, Bluff	Lots 1-12 Block VIII DP 225 Campbelltown Hundred	29, 30	7
	Educational Purposes - Te Wharekura O Arowhenua	734 Tweed Street Invercargill	Parts Lot 1, Parts Lot 2, DP 3941, Lot 7 DP 5102, Part Lot 3 DP 5914, Part Lot 4 DP 3698 and Part Section 12 Block I Invercargill Hundred (Approved Lot 2 LT 46357 on 15 May 2013) Lot 2 DP 463547	11	8
	Educational Purposes – Clarendon Kindergarten	30 Waiiau Place Invercargill	Lots 16-17 DP 9367	17	9
	Educational Purposes - Coldstream Hostel	11 Lees Street Invercargill	Lots 1-3, 6-16 and Part Lots 4-5, Block IV DP 108	10	10
	Educational Purposes - Donovan Primary School	200 Drury Lane Invercargill	Lot 1 DP 8089	6	11
	Educational Purposes - Enwood Hostel	15 Enwood Lane Invercargill	Part Lots 28 and Lot 32 DP 1043	10	12
	Educational Purposes - Glengarry Kindergarten	116 Derwent Crescent Invercargill	Lot 115, DP 6141	11	13
	Educational Purposes - Invercargill Middle Primary School	31 Jed Street Invercargill	Sections 1-6 and 19-22 Block LIV Town of Invercargill	9	14
	Educational Purposes - Windsor North Primary School	91 Chelmsford Street Invercargill	Lot 1 DP 9730	10, 7	15
	Educational Purposes - James Hargest College – Junior Campus	6 Layard Street Invercargill	Part Lot 1, DP 4390	7	16
	Educational Purposes - James Hargest College – Senior Campus	320 Layard Street Invercargill	Part Lot 6, Lot 7, Lot 16 and Part Lot 17 DP 2104	7	17
	Educational Purposes - New River Primary School	117 Elizabeth Street and 407 Ness Street Invercargill	Lots 30 and 31, Blk IV, DP 59, Part Lot 18 Deeds 3, Part Lots 1 and Lot 3 , DP2205, Lot 8 DP 9827	17	18
	Educational Purposes - Aurora College	234 Regent Street Invercargill	Lot 7 DP 7842, Lot 8 DP 7842, Lot 14 DP 7842, Lot 65 DP 11499, Lot 64 DP 11258, Pt Lot 1 DP 7273, Pt Sec 34 BLK XIX Invercargill Hundred, Pt Lot 1 DP 3810, Lot 4 DP 7842	17, 18	19
	Educational Purposes -	580 Tay Street	Part Lots 5-6, DP 270, Part	10, 11	20

REQUIRING AUTHORITY	PURPOSE	LOCALITY	LEGAL DESCRIPTION	MAP No.	DESIG. No.
	Ascot Community School	Invercargill	Lots 1-3, DP 5060 and Lot 596, DP 5761		
	Educational Purposes - Makarewa Primary School	56 Flora Road East Makarewa	Section 1, Block III Town of Makarewa	2	21
	Educational Purposes - Myross Bush Primary School	288 Mill Road North Invercargill	Lot 1, DP 3269	12	22
	Educational Purposes - Newfield Park Primary School	82 Wilfrid Street Invercargill	Part Section 18, Block I, Invercargill Hundred	10	23
	Educational Purposes - Otatara Primary School	146 Dunns Road Invercargill	Section 1, Section 11 and Part Section 29, Block XXI, Invercargill Hundred	15	24
	Educational Purposes - Ranui Kindergarten	288 Nelson Street Invercargill	Lot 119, DP 58	17	25
	Educational Purposes - Ruru Special School	19 Ruru Street Invercargill	Lots 8 and 9, DP 2790 and Section 1 SO 7933 and Section 180, Block XV, Invercargill Hundred	6	26
	Educational Purposes - Salford Primary School	110 Lamond Street Invercargill	Part Lot 1, DP 2104	7	27
	Educational Purposes - Southland Boys' High Secondary School	181 Herbert Street Invercargill	Sections 45-46 and 118, Block I Invercargill Hundred, Part Lot 2 of 19, Lots 5-12, Lot 3 of 19, Lot 4 of 19, Lot 5 of 19, Part Lot 14, Part Lot 15, Part Lot 16, Part Lot 17, Part Lot 18 DP 696, Lots 1-2 DP 2537 and Lot 1 DP 7208	10	28
	Educational Purposes - Southland Girls' High Secondary School	328 and 350 Tweed Street Invercargill	Parts Lot 2, DP 3106, Part Lots 17-18 DP 147, Part Lots 3 DP 3076 and Part Lot 1 DP 3373	10	29
	Educational Purposes - Fernworth Primary School	288 Pomona Street Invercargill	Part Lot 1 DP 9719	17	30
	Educational Purposes - Murihiku Young Parents Learning Centre	55 Isabella Street Invercargill	Parts Lot 2 DP 2285 and Lot 2 DP 5294 Sec 1 SO480427	10	31
	Educational Purposes - Tisbury Primary School	3 Boundary Road Invercargill	Parts Lot 1 DP 561, Part Section 15 Block XXII Invercargill Hundred, Part Lot 1, DP 2856 and Part Section 74, Block II, Town of Seaward Bush	18	32
	Educational Purposes - Waihopai Primary School	121 Herbert Street Invercargill	Lot 1 of 19, Part Lot 2 of 19 and Lots 2 and 3, DP 696 and Lots 1-2, DP 7932	10	33
	Educational Purposes -	21 Durham Street	Lots 7-8, Part Lots 5, 6, 26,	6	34

REQUIRING AUTHORITY	PURPOSE	LOCALITY	LEGAL DESCRIPTION	MAP No.	DESIG. No.
	Waikiwi Kindergarten	Invercargill	27 and 28 DP 194		
	Educational Purposes - Waverley Park Primary School	55 Eden Crescent Invercargill	Lot 294 DP 4689	10, 11	35

Note: *“Educational Purposes” means, for the purpose of the above Ministry of Education designations, the use of land and buildings on the designated site for educational benefit, including the provision of instruction and/or training, and may include such uses as early childhood education services, schools, community education, tertiary educational institutions, work skills training centres, outdoor education centres, sport training establishments and out of school care services and includes their ancillary administrative and support facilities (including health, social and medical services, and cultural, recreational, communal or accommodation).*