



## **PROPOSED INVERCARGILL CITY DISTRICT PLAN**

**Report No.44**

**Variation 5**

**Industrial Activities**

**14 March 2016, 9.00 am  
COUNCIL CHAMBERS  
CIVIC ADMINISTRATION BUILDING**

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## **1. EXECUTIVE SUMMARY**

This report addresses submissions relating to Variation 5 – Industrial Activities.

The following report includes discussion and recommendations on the 12 submissions and one further submission received in relation to this Variation.

The submissions received were generally supportive of the Variation, although several submissions did suggest minor amendments to provide greater clarity and remove ambiguity. One submission opposed the Variation, and in particular the inclusion of “dairy processing” in the Schedule of Heavy Industries, raising concerns that the Variation does not recognise and provide for existing lawfully established land uses that could be significantly impacted by the changes recommended in the Variation.

Recommendations in this report support the approach in the Variation and recommend it is accepted, subject to amendments to the Schedule of Heavy Industries to clarify the status of fertiliser manufacturing, processing, and storage activities.

## **2. INTRODUCTION**

### **2.1 Report Author**

My name is Gareth James Clarke. I am a Senior Policy Planner at the Invercargill City Council, a position I commenced in May 2015. I have eight years planning policy experience working in planning and regulatory roles in local government in New Zealand and the United Kingdom, including four years as a Policy Planner at the Invercargill City Council. These roles have focused on both developing and implementing District Plans and planning documents. I hold the qualifications of BA in Geography.

### **2.2 Peer Review**

This report has been peer reviewed by Liz Devery. Liz is a Senior Policy Planner at the Invercargill City Council, a position she has held since 2003. Liz has over 15 years planning policy experience working in planning and regulatory roles in local government in New Zealand and the United Kingdom. These roles have focused on both developing and implementing District Plans and planning documents. Liz holds the qualifications of LLB/BA (Hons I) in Geography.

### **2.3 How to Read this Report**

This report is structured as follows:

- Interpretation (an explanation of some of the terms used) and explanation of the Hearing process.
- Background to the development of the Variation
- Description of the statutory framework within which the proposed provisions have been developed.
- Analysis of the submissions, including a discussion of the key issues raised through the submissions and further submissions received.
- Assessment of the proposed changes under Section 32 of the RMA.
- Concluding comments.
- Recommendations on individual submissions.
- Tracked changes of the Proposed District Plan provisions.

To see my recommendation on an individual submission please refer to the table at the end of Appendix 1. The table sets out the name and relevant submission number of those who submitted on the Variation 5 – Industrial Activities provisions and a brief summary of their submission and decisions requested, followed by my recommendation and the reasons for it.

### **2.4 Interpretation**

In this report, the following meanings apply:

“Council” means the Invercargill City Council

“Hearings Committee” means the District Plan Hearings Committee

“Operative District Plan” means the Invercargill City District Plan 2005

“Proposed District Plan” means the Proposed Invercargill City District Plan 2013

“Provisions” is a term used to collectively describe Objectives, Policies and Rules

“RMA” means the Resource Management Act 1991

“Submitter” means a submitter to the Variation

## **2.5 The Hearing Process**

A hearing is to be held to consider the submissions lodged on Variations 1 - 8 to the Proposed Invercargill City District Plan 2013. This report applies to Variation 5 – Industrial Activities.

This report does not necessarily reflect the recommendations made by staff in response to submissions and further submissions on the Proposed District Plan notified in August 2013. Decisions on original submissions and further submissions have yet to be notified. It is anticipated that decisions on the Proposed District Plan, as notified, will be released at the same time as decisions on this Variation. All submissions and further submissions on these issues will be considered in the final drafting of the Proposed District Plan.

The Hearings Committee comprises of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. This Committee is to consider the Proposed District Plan and the submissions and further submissions lodged. The Hearings Committee has full delegation to issue a decision on these matters.

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the “RMA”). Section 42A provides for a report to be prepared prior to a hearing, setting out matters to which regard should be had when considering a Proposed District Plan and the submissions lodged to it. This report highlights those matters that are considered appropriate by the author for the Hearings Committee to consider in making decisions on the submissions lodged. The report has been prepared on the basis of information available prior to the hearing.

While the Hearings Committee is required to have regard to this report, regard must also be given to the matters raised in submissions, and presentations made at the hearing. The comments and recommendations contained in this report are not binding on the Hearings Committee and it should not be assumed that the Hearings Committee will reach the same conclusions set out in the report having heard from the submitters and Council advisers.

The hearing is open to the public, and any person may attend any part of the hearing.

Those persons who lodged a submission have a right to speak at the hearing. They may appear in person, or have someone speak on their behalf. They may also call evidence from other persons in support of the points they are addressing.

At any time during or after the hearing, the Hearings Committee may request the preparation of additional reports. If that is done, adequate time must be provided to the submitters to assess and comment on the report. The Hearings Committee may determine that:

- the hearing should be reconvened to allow responses to any report prepared, or
- any responses be submitted in writing within a specified time frame.

At the conclusion of the hearing process, the Hearings Committee will prepare a written decision. The decision is sent to all persons who lodged a submission. If not satisfied with the decision the submitters have a right of appeal to the Environment Court. If an appeal is lodged, the RMA requires a copy to be served on all submitters with an interest in that matter. Any submitter served may, if they wish, become a party to the appeal either in support or opposition to it.

If there is an appeal, the Environment Court will provide an opportunity for mediation between the parties. If mediation is not accepted, or does not resolve the issues, a further hearing will take place before a Judge and Court appointed Commissioners. Except on points of law, the decision of the Environment Court is final.



### 3. BACKGROUND

The approach to zoning for industrial land uses in the Operative District Plan is quite different from the approach recommended in the Proposed District Plan. Under the Operative District Plan there are essentially just two industrial zones. The Industrial and Industrial A Sub-Areas, located in the rural part of the district, provide for larger scale industrial activities, while the Enterprise Sub-Area provides for the smaller scale industrial activities within urban environments. The permissive nature of this Enterprise Sub-Area has resulted in a number of adverse effects including retail and office based activities being drawn away from the Inner City, and noise pollution problems at the interface between the Enterprise and Domicile Sub-Areas.

In response to these issues a review of the hierarchy of business and industrial zones was initiated as part of the review of the Operative District Plan. This review led to the development of a new approach to zoning of these areas under the Proposed District Plan. The Proposed District Plan now takes a more prescriptive approach to what types of activities are anticipated within the different business and industrial zones using what urban planning terminology refers to as a centres-based approach. This includes the introduction of two distinct industrial zones in place of the existing Enterprise Sub-Area, with the Industrial 1 Zone providing for light industrial activity located in close proximity to residential activity, and the Industrial 2 Zone providing for a wider range of activities that benefit from being physically separated from sensitive residential activity.

Such an approach requires classifying industrial activities as either “Heavy Industry” or “Light Industry”, and this has necessitated the introduction of two new definitions into the Proposed District Plan, in addition to an overall definition for “Industry”. Industry is defined as:

*“... an activity involving land and/or buildings used for the manufacturing, repairing, engineering, fabricating, processing, packing or warehouse storing of products or material and includes but is not limited to contractors’ yards and depots, substations not provided for as infrastructure, and the transfer, storage and/or treatment of waste not otherwise defined.”*

Heavy industry is defined as:

*“... any industry listed in Appendix IX and includes any warehousing activity, service or transport yard. 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.”*

Appendix IX is the Schedule of Heavy Industry, which provides a list of noxious and/or offensive industries that are not considered appropriate neighbours to residential activity.

Light industry is defined as:

*“... any industry not listed in Appendix IX and which:*

- (A) 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.”*

Two problems arise with the definitions as currently drafted. Firstly, the definition of Heavy Industry expressly includes “warehousing activity, service or transport yard”. These activities

are likely to be relatively low impact in terms of the adverse effects they generate and therefore could legitimately fit within light industrial areas. However, under the proposed definition they would not be permitted activities and would therefore require resource consent to operate within the Industrial 1 Zone.

Secondly, the Schedule of Heavy Industries in Appendix IX that is referred to in the definitions appears to be incomplete and may not adequately cover all existing or potential heavy industries that are reasonably anticipated within these heavy industrial zones. For example, sawmilling is an existing activity in two different established industrial locations within the district, and these activities should be provided for within the Proposed District Plan. Their omission from Appendix IX also has the unintended consequence of permitting them as of right in light industrial zones next to residential areas. Although they would still be required to meet the Plan's noise provisions, their appropriateness as a neighbour to residential dwellings is doubtful.

Appendix IX is also silent on a number of other land use activities that have the potential to be noxious and offensive, including a number of activities that have been identified as such under Schedule 3 of the Health Act 1956. These activities, which include dag crushing, flock manufacturing, refuse collection and disposal facilities, and motor vehicle wrecking and crushing, are unlikely to be appropriate neighbours to residential activity, but currently their absence from Appendix IX unintentionally provides for their establishment as of right in the Industrial 1 Zone.

## 4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

In developing the Proposed District Plan there are a number of statutory requirements guiding the process and outlining what must be considered.

### 4.1 Resource Management Act 1991

In reviewing the District Plan, the Council must follow the process outlined in Schedule 1 of the RMA.

The First Schedule procedure includes notification for submissions (clause 5) and further submissions (clause 8), holding a hearing into submissions (clause 8(b)), and determining whether those submissions are accepted or rejected and giving reasons for the decisions (clause 10).

Clause 29(4) of the First Schedule to the RMA states that after considering a plan the local authority may decline, approve, or approve with modifications, the plan, and shall give reasons for its decisions.

Under Section 74 of the RMA, in relation to changes to the District Plan, the Council must consider Part 2 of the Act (purposes and principles), Section 32 (alternatives, benefits and costs), and relevant regional and district planning documents.

#### 4.1.1 Part 2 of the RMA

Part 2 of the RMA (ss5-8) sets out the purpose and principles of the Act.

The purpose of the RMA is set out in Section 5. The matters addressed within this report fall within the purpose of the RMA. In particular, the provisions provide for the people and community to provide for their social, economic and cultural well-being, whilst also seeking to avoid, remedy or mitigate adverse effects on the environment in accordance with Section 5(2)(c) of the RMA.

Section 6 of the RMA sets out matters of national importance which must be recognised and provided for. I do not consider that any of these matters are particularly relevant to this subject.

Section 7 sets out “other matters” for which particular regard shall be had. Those that are most relevant and that have been had regard to in the drafting of this Variation are:

- (b) *the efficient use and development of natural and physical resources:*
- (c) *the maintenance and enhancement of amenity values:*
- (f) *maintenance and enhancement of the quality of the environment:*

Section 8 of the RMA obliges persons exercising functions and powers under the Act to take account of the principles of the Treaty of Waitangi. Representatives from Te Ao Marama have been involved in discussions on the matters raised in this Variation, raising no significant concerns.

#### **4.1.2 Functions of Territorial Authorities under the RMA**

Section 31 of the RMA states the functions of a territorial authority under that Act. Section 31(1)(b)(i) specifically states that territorial authorities have the function of controlling any actual or potential effects of the use, development or protection of land. The provisions addressed in this Variation fall within the Council's functions under the RMA.

#### **4.1.3 Consideration of alternatives, benefits, and costs**

Section 32 of the RMA states the Council's obligations in assessing the alternatives, benefits and costs.

Whilst a Section 32 report was released at the time of notification of the Variation, the Council is required to carry out a further evaluation through the hearing, consideration and deliberation process before making changes on the Proposed District Plan. A further Section 32 assessment of any changes recommended is included in this report.

#### **4.2 Relevant Planning Policy Documents**

The RMA specifies a number of documents that need to be considered in a decision on a Proposed District Plan and the weight that should be given to these. These are addressed in the following section.

##### **4.2.1 New Zealand Coastal Policy Statement 2010**

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand coastal policy statement. The New Zealand Coastal Policy Statement 2010 (NZCPS) is not of direct relevance to the matters addressed in this Variation. It is acknowledged that there are areas of industrial zoned land within the Coastal Environment, mainly within the industrial areas of Bluff, the Awarua and Ocean Beach Industrial 3 areas and a small area of land zoned Industrial 2 to the east of the estuary south of Tweed Street. However, the natural character of these areas is minimal given historical use of the properties and the Proposed District Plan does not change the extent of these areas.

By enabling the continued use of the infrastructure and built development in these areas the provisions of the Proposed District Plan provide for the needs of the population whilst being consistent with the NZCPS. This Variation does not propose to significantly alter those provisions. Where resource consent is required for development within these areas, consideration of effects on the Coastal Environment will be required through the Proposed District Plan provisions.

##### **4.2.2 National Policy Statements**

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements (NPS). There is no NPS that is particularly relevant to this Variation.

### **4.2.3 National Environmental Standards**

Section 44A of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard (NES). The provisions subject to this Variation do not conflict with any NES.

The National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 is relevant to land use and development in industrial zones as many industrial activities would be considered HAIL activities likely to cause land contamination resulting from hazardous substance use, storage or disposal. The Proposed District Plan includes the NES and potential subdivisions and changes of use of land in these zones may require some consideration of the NES.

### **4.2.4 Operative Regional Policy Statement**

Under Section 75 of the RMA, a District Plan must give effect to an Operative Regional Policy Statement (RPS). The relevant RPS is the Southland Regional Policy Statement 1997. The Operative RPS included provisions on the built environment. It has four Objectives. The three of most relevance to this Variation seek to achieve the sustainable management of the built environment to meet the needs of future generations, maintain and enhance the environmental quality of the built environment, and minimise the adverse effects of the built environment on natural and physical resources.

There are seven policies relating to the built environment in the Operative RPS. Of these only one is of relevance to this Variation. This policy seeks to recognise that changes to one component of the built environment can have adverse effects on other components of the built environment.

The intention of this Variation is to manage activities in one zone that may impact on another zone, ensuring the sustainable use and development of the built environment as a physical resource. In that regard I consider the Variation gives effect to the Operative RPS.

### **4.2.5 Proposed Regional Policy Statement**

In accordance with Section 74 of the RMA, regard needs to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012. Decisions were released on the Proposed RPS on 6 June 2015. In developing this Variation, the decisions on submissions to that policy statement form part of the considerations.

The Proposed RPS includes a chapter on Urban issues (Chapter 17). The Objective of the Urban chapter provisions is to ensure urban development occurs in an integrated, sustainable and well-planned manner which provides for positive environmental, social, economic and cultural outcomes. In developing this Variation particular regard has been had to Policy URB.1, which requires the adverse effects of urban development on the environment to be avoided, remedied or mitigated, and Policy URB.5, which encourages provision for a range of land use activities within urban areas.

I believe this Variation ensures that industrial development is undertaken in an integrated and sustainable way that does not adversely impact on other non-industrial areas, and in doing so, has regard to the Proposed RPS.

#### **4.2.6 Regional Plans**

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. There are no Regional Plans that are directly relevant to the issues covered by this Variation. The proposed Variation is not inconsistent with any of the Regional Plans.

#### **4.2.7 Iwi Management Plans**

Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an Iwi authority and lodged with the territorial authority. Ngāi Tahu has lodged an Iwi Management Plan with the Council. The relevant document is the *Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Tauira*. Section 3.5.4 Industry outlines the expectations of Iwi with respect to these matters and the Variation is considered consistent with those policies.

#### **4.2.8 Management Plans and Strategies Prepared under other Acts**

A District Plan is required to have regard to management plans and strategies prepared under different Acts.

Regard has been had to *The Big Picture*, Council's spatial plan prepared under the Local Government Act 2002. The importance of Industrial areas is identified through the Spatial Plan; however the plan also recognises issues at the interface between industrial areas and residential areas. *The Big Picture* notes the value of managing the relationship between enterprises and residents in nearby areas to maintain what each values about the area. The Proposed District Plan has attempted to address this relationship by zoning those areas previously zoned Enterprise Sub-Area that are close to residential areas as a light industrial zone and encouraging the more intensive industrial activities to locate in areas separated from residential activities. This Variation reflects that approach.

## 5. ANALYSIS OF SUBMISSIONS

This report addresses approximately 12 submission points along with six associated further submission points. Recommendations on these submissions are included in **Appendix 1**. This part of the report discusses the issues raised in the submissions in more detail.

### 5.1 Light Industry

Amy Iverson (submission 8.1) submitted in general support of the inclusion of the additional activities within in the Schedule of Heavy Industries, but considers there needs to be more clarity around how industries that are not included on the Schedule will be considered. The submitter also does not support providing for warehousing activity as a permitted activity in light industrial areas.

The definition for “Light Industrial” is considered reasonably explicit in stating that industrial activities that are not listed on the Schedule of Heavy Industries in Appendix IX are considered light industrial. The definitions proposed should enable Plan users to easily establish whether a particular industrial activity is considered “Light” or “Heavy”.

The nature of warehouse storing of products and materials is such that, in general, it is not an activity that generates significant adverse effects on the environment. Where there may be adverse effects associated with warehousing activity, for example, noise effects, hazardous substances etc, these can be managed through other district wide rules in the Proposed District Plan. That being the case, it is considered that warehousing activity can be located within proximity to residential activity without having any significant impact on it. This report therefore considers it an appropriate land use activity within the Industrial 1 Zone.

### 5.2 Awarua

Todd Meikle (submission 9.1) submitted in opposition to the Variation, making reference to air and noise pollution, roading issues, and noting a concern around the lack of definition about what and where light and heavy industrial activities can locate, particularly on industrial land at Awarua. The Awarua industrial zones were developed through previous RMA processes as part of the Operative District Plan. They have been developed as heavy industrial areas within which, having undertaken a comprehensive assessment of the potential adverse effects of development, both light industrial and heavy industrial activities are considered appropriate (where they are developed in accordance with approved Concept Plans). There is no stipulation as to where each particular industrial activity should be located, although the Concept Plans do set out set access and roading layouts, landscaping requirements etc in order to help manage the effects of the development on the environment.

### 5.3 Incinerator Works

The submission of H W Richardson Ltd (submission 2.2) requested the removal of “incinerator works” from the Schedule of Heavy Industries in Appendix IX. The submitter stated that “incinerator works” had not been included within the list of activities that were specifically excluded from the definition of “Light Industry” in the decision on Plan Change 11. Plan Change 11 was a private plan change to the Operative District Plan that sought to rezone the submitter’s land in Lake Street from

rural to industrial. The submitter considers the Proposed District Plan needs to give full effect to that decision and therefore the term “incinerator works” should be removed from the Proposed District Plan.

While it is accepted that the Proposed District Plan should give effect to Plan Change 11 where practicable, the assertion that the Plan Change 11 decision specifically excluded “incinerator works” from the definition of “Light Industry” is not accepted. In his written decision the Commissioner appears to make specific reference to a number of potential offensive and noxious activities, including incinerator works, which should be subject to a resource consent process in order to manage any potential adverse effects on nearby residential activity.

Removing “incinerator works” from the Schedule of Heavy Industries would have the effect of effectively permitting such activities as a light industrial activity in all Industrial 1 Zones within the City. Due to the proximity of these zones to residential areas, and the potential impacts incineration activities may have on residential activity, such an outcome is not likely to achieve the objectives for the Industrial 1 Zone.

#### **5.4 Dairy Processing**

Blue River Dairy LP made submissions (submission 3.1) and further submissions in opposition to the Variation on the basis that introducing “Dairy processing” activity into the Schedule of Heavy Industries will have significant implications for the future operation and growth of the submitter’s dairy processing activity, located in a light industrial zone under the Proposed District Plan. The submitter believes the Proposed District Plan fails to recognise and provide for existing lawfully established land uses, and that their operations are of a scale and nature that is not comparable to the other activities listed in the Schedule of Heavy Industries. The submitter has suggested amendments to the provisions to provide for the ongoing operation and development of their operations as a permitted activity.

There is a history of complaints and issues of conflicting amenity in areas across the city where industrial activities are situated in close proximity to residential activity. The Proposed District Plan and this Variation have recognised this existing pattern of land use whereby, particularly in the Appleby area, industrial activities have encroached into what was previously a predominantly residential area. The response has been to introduce an Industrial zone to cover those areas previously zoned Enterprise Sub-Area under the Operative District Plan and where industrial activities have the potential to adversely affect the residential amenity of adjacent residential zones. Within this new zone, industrial activity has been restricted to lower impact, light industry which is likely to be a “better neighbour” to residential activity.

The proposal to add “dairy processing” to the Schedule of Heavy Industries is based on the submission of Open Country Dairy Ltd that was considered previously in Section 42A Report 32 – Definitions. The Open Country submission argued that the absence of dairy processing from the Schedule of Heavy Industries was anomalous given the range of other industrial activities that were included on the list, including meat processing, fertiliser works and wool scouring. While the submitter’s operation may currently be run on a smaller scale than the Open Country operation at Awarua, the Open Country operation illustrates the potential for dairy processing to develop to a much larger scale and with potential for significant impacts on residential amenity. Its inclusion on the Schedule of Heavy Industries is therefore considered appropriate. Any expansion or redevelopment of the submitter’s operation has the potential to



generate more than minor adverse effects on nearby residential amenity, and managing these effects by way of resource consent is considered an effective approach. Current dairy processing operations will continue to be provided for where they accord with the “existing use rights” provisions of the RMA.

## **5.5 Fertiliser Manufacture, Processing and Storage**

Kylie Fowler’s submission (submission 10.1) suggested a slight grammatical amendment to the Schedule of Heavy Industries to ensure that the manufacture, processing, and storage of fertiliser are all considered as distinct heavy industrial activities. This would prevent a situation where under the current wording the storage only of fertiliser, without any associated processing activity, might be interpreted as being a light rather than heavy industry.

Ballance Agri-Nutrients Ltd also made a submission (submission 6.2) that is relevant to this point by pointing out that the current wording in relation to fertiliser storage could be interpreted as meaning that any storage of fertiliser, regardless of quantity being stored, is a heavy industrial activity. The submitter suggests that such an interpretation could have significant consequences for land use activities, such as agriculture, that utilise fertiliser products that may often be stored on site in smaller quantities. The submitter suggests that storage of fertiliser where it is already permitted by Rule 3.7 Hazardous Substances should not be categorised as a heavy industry.

Both of these submissions are recommended to be accepted with amendments made to the Schedule of Heavy Industries accordingly. It is agreed that the large scale storage of fertiliser over and above what is permitted in Rule 3.7 should be considered a heavy industry in its own right, regardless of whether or not it is associated with any fertiliser manufacturing or processing activity. It is also agreed that Rule 3.7 and Appendix VII have established the parameters within which the storage of fertiliser is considered an acceptable activity to be undertaken as of right in each zone, and I do not consider that there was any intention to then potentially contradict that Rule and require all fertiliser storage to be assessed as “Heavy Industry”, regardless of how small the level of storage might be and in what land use context it may be occurring.

## **6. DISCUSSION OF SECTION 32 MATTERS**

Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan. This requires the preparation of an Evaluation Report.

The first step of Section 32 requires that objectives are assessed to determine whether they are the most appropriate way to achieve the purpose of the RMA (as defined in Section 5).

The second step is for policies and rules to be examined to determine whether they are the most appropriate way to achieve the objectives. In this instance, the objectives are those in the Proposed District Plan. This assessment includes requirements to:

- Identify 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)
- Identify other reasonably practicable options for achieving the objectives; and
- Assess the efficiency and effectiveness of the provisions in achieving the objectives.

A Section 32 evaluation report was included with the material released at the time of notification of the Variation.

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 Variation was notified.

Section 32 states that Evaluation Reports need to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. This means that if in its decision the Hearings Panel recommends minor changes from what was in the Variation, a further evaluation can be relatively brief.

### **6.1 Section 32AA Further Evaluation**

Changes have been recommended to the Schedule of Heavy Industries to clarify that fertiliser storage is to be considered a heavy industry in its own right, regardless of whether or not it associated with fertiliser manufacturing or processing activities, and also to clarify that fertiliser storage otherwise permitted under Rule 3.7 – Hazardous Substances is not intended to be dealt with as a heavy industry. The recommended amendments are considered appropriate in identifying the activity status for activities involving the manufacture, processing, and storage of fertiliser. The changes are consistent with Objectives and Policies of the Proposed District Plan and will provide more certainty for those with an interest in the management and use of fertiliser products as to the activity status of their activities.

Further evaluation under Section 32AA of the RMA is considered appropriate in relation to the proposed addition of a number of new activities to the Schedule of Heavy Industries, despite no further changes to this proposal being recommended in this report. It is acknowledged that the addition of new activities to the Schedule of Heavy Industries may result in additional costs for existing heavy industrial activities operating in a light industrial zone and who might want to expand or redevelop their operations in the future. In requiring these activities to obtain resource consent, such heavy industrial activities may incur costs in mitigating any relevant adverse environmental effects.

The proposed additions to the Schedule of Heavy Industries will also result in significant social and environmental benefits by protecting the amenity of adjacent residential zones. The additions will also provide more certainty for both residents and industrial land owners and operators alike in terms of the status of activities occurring at the interface of the two contrasting land use (where new development can often be contentious). The additions reinforce the policy direction that was signalled in the Industry Overview section of the Proposed District Plan. The provisions in the Industry Overview section establish that the potential for industrial activity to detract from the amenity of other land use is a significant resource management issue that is to be addressed by restricting the range and scale of industrial activities within the built-up area of Invercargill, particularly where they're near to residential areas. The objective of this approach is to ensure industrial activities are located in appropriate zones depending on the nature and scale of the activity.

The risk of adding these activities to the Schedule of Heavy Industries is that any existing heavy industries located within the proposed light industrial zones that might be looking to expand or redevelop will be required to negotiate an additional bureaucratic process at their own cost in order to demonstrate that the adverse effects of such activities are appropriately avoided, remedied or mitigated.

The risk of not acting is that the rule framework of the Proposed District Plan would not achieve the objective of ensuring that industrial activities are located in appropriate zones, meaning the potential would remain for some heavy industrial activities to adversely impact on the amenity of residential areas located adjacent to light industrial zones.

Overall the risks of not acting are considered to outweigh the risks of acting due to the small number of established heavy industries located within proposed light industrial that might be capable of expanding on their existing sites; the presence of a number of heavy industrial zones within the district and the availability of vacant land within some of these zones that may be better able to accommodate such expansion; and given the need to address what appears to be a significant health and well-being issue for a not insignificant number of the City's residents (based on the history of complaints relating to the operations of some of the existing heavy industrial activities located within these light industrial areas).

## **7. CONCLUDING COMMENTS**

Variation 5 – Industrial Activities, clarifies that the status of stand alone warehousing activity is a light industrial activity, and updates the Schedule of Heavy Industries to ensure that the range of heavy industrial activities occurring within the district is appropriately managed by the Proposed District Plan rules. Under the current definition of “Heavy Industry” in the Proposed District Plan, warehousing activity is interpreted as being a heavy industrial activity that would require resource consent in light industrial zones; while some heavy industries have been omitted from the Schedule of Heavy Industries and could therefore establish as of right in close proximity to residential activities. Amending the definition of “Heavy Industries” and updating the Schedule of Heavy Industries is considered an effective and efficient method of meeting the Objectives of the Plan.

This report includes discussion and recommendations on the 12 submissions and six further submissions that were received on the Variation. It is recommended that the Variation be accepted subject to some minor amendments to the reference to fertiliser manufacture, processing, and storage in the Schedule of Heavy Industries.

## APPENDIX 1: Recommendations in response to submissions

Submitter	Submission	Recommendation
<b>GENERAL</b>		
<p><b>5.1 Environment Southland</b></p>	<p>Support.</p> <p>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>RELIEF SOUGHT:</p> <p>Not stated.</p> <p><b>FS 2.16 - Blue River Dairy LP</b> <b><i>Oppose submission 5.1</i></b> The further submitter opposes the addition of dairy processing activity to the list of heavy industries.</p>	<p><b>Accept</b></p>
<p><b>7.1 Barry R Munro</b></p>	<p>Support.</p> <p>The submitter supports the provisions.</p> <p>RELIEF SOUGHT:</p> <p>Retain provisions as notified in the Variation.</p> <p><b>FS 2.18 - Blue River Dairy LP</b> <b><i>Oppose submission 7.1</i></b> The further submitter opposes the addition of dairy processing activity to the list of heavy industries.</p>	<p><b>Accept in part</b></p>

Submitter	Submission	Recommendation
<p><b>8.1</b> <b>Amy M Iverson</b></p>	<p>Support in part.</p> <p>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>RELIEF SOUGHT:</b></p> <p>Add the additional business to the Schedule of Heavy Industries.</p> <p>Amend the definitions to exclude “warehousing” from “light industry”.</p> <p><b>FS 2.19 - Blue River Dairy LP</b> <b>Oppose submission 8.1</b> The further submitter opposes the addition of dairy processing activity to the list of heavy industries.</p>	<p><b>Accept in part</b></p> <p>The Proposed District Plan established the Industrial 1 Zone to provide for those industrial activities that are likely to be lower impact in terms of the adverse effects they generate, and therefore more likely to be acceptable neighbours to residential areas. The low-impact nature of warehousing suggests it is an appropriate activity to locate within a light industrial zone. No amendments to the Variation are recommended in this regard.</p>
<b>SECTION FOUR - DEFINITIONS</b>		
<p><b>9.1</b> <b>Todd Meikle</b></p>	<p>Oppose.</p> <p>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><b>RELIEF SOUGHT:</b></p> <p>Remove the status quo, ideally reducing any effects on the public.</p>	<p><b>Reject</b></p> <p>Zoning under the Proposed District Plan takes a more prescriptive approach than the Operative District Plan does in directing what activities can go in each zone as of right and which activities will require resource consent. The Proposed District Plan also sets environmental standards, for example noise limits, height limits etc that manage the adverse environmental effects of activities occurring within each zone. The Proposed Plan does not go so far as to direct where within each zone any activities that are otherwise permitted as of right should be located. Some zones, for example the Industrial 3 and 4 Zones at Awarua, new development is required to be</p>

Submitter	Submission	Recommendation
		<p>carried out in accordance with adopted Concept Plans that set out spatially how the zones are to be developed. Again, these Concept Plans do not go as far as to direct where each potential permitted activity should be located, but in most cases, including for the Awarua industrial zones, they do stipulate vehicle access points, roading layouts and landscaping requirements. It is not clear what the submitter's concerns are with respect to air pollution, noise pollution and roading etc. However, it should be noted that these Concept Plans and the provisions that support them have been developed through previous Planning processes under the RMA where all potential environmental effects, including the issues the submitter refers to, have been given due consideration.</p>
<p><b>2.1 H W Richardson Ltd</b></p>	<p>Support.</p> <p>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>RELIEF SOUGHT:</p> <p>Retain the definition of "Heavy Industry" as notified as part of the Variation.</p> <p><b>FS 2.14 - Blue River Dairy LP</b> <b>Support in part submission 2.1</b></p> <p>The further submitter supports 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>Accept</b></p> <p>RECOMMENDATION:</p> <p>Retain the definition of "Heavy Industry" as notified as part of the Variation.</p>

Submitter	Submission	Recommendation
<p><b>4.1 Cunningham Group</b></p>	<p>Support.</p> <p>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>RELIEF SOUGHT:</p> <p>That the Variation be adopted as drafted with warehousing activity, service or transport yard excluded from the definition of “Heavy Industry”.</p> <p><b>FS 2.15 - Blue River Dairy LP</b> <b><i>Support in part submission 4.1</i></b></p> <p>The further submitter supports 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. 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>Accept</b></p> <p>RECOMMENDATION:</p> <p>Retain the definition of “Heavy Industry” as notified as part of the Variation.</p>



Submitter	Submission	Recommendation
<p><b>6.1</b> <b>Ballance Agri-Nutrients Ltd</b></p>	<p>Support.</p> <p>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>RELIEF SOUGHT:</p> <p>Retain the definition of “Heavy Industry” as notified as part of the Variation</p> <p>AND</p> <p>Any similar relief with like effect</p> <p>AND</p> <p>Any consequential amendments that stem from the relief sought within paragraph 2.2.2(d)(i)</p> <p><b>FS 2.17 Blue River Dairy LP</b> <b><i>Oppose in part submission 6.1</i></b> 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>Accept</b></p> <p>RECOMMENDATION:</p> <p>Retain the definition of “Heavy Industry” as notified as part of the Variation.</p>
<b>SECTION FIVE - APPENDICES</b>		
<p><b>1.1</b> <b>Silver Fern Farms Management Ltd</b></p>	<p>Support.</p> <p><i>Note: The submission refers to the addition of the term “Meat Processing Facility” in the definitions. The Variation includes adding this term into the Schedule of Heavy Industries, which is referred to in the definition of “Heavy Industry”.</i></p> <p>The submitter supports the addition of the term “Meat Processing Facility” to definitions. The submitter notes that it proposed this term in</p>	<p><b>Accept</b></p> <p>RECOMMENDATION:</p> <p>Retain the term “Meat Processing Facility” and its inclusion in the Schedule of Heavy Industries referred to in the definition of “Heavy Industry” as notified as part of the Variation.</p>

Submitter	Submission	Recommendation
	<p>their original submission as they consider it is a better representation of modern processing facilities.</p> <p>RELIEF SOUGHT:</p> <p>Retain the term “Meat Processing Facility”.</p>	
<p><b>2.2</b> <b>H W Richardson Ltd</b></p>	<p>Oppose in part.</p> <p>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>RELIEF SOUGHT:</p> <p>Remove “incinerator works” from Appendix IX and amend Rule 3.31.1 accordingly.</p>	<p><b>Reject</b></p> <p>It is agreed that the Proposed District Plan should align with the outcomes of Plan Change 11 as much as possible, however, it is not accepted that decisions on Plan Change 11 assigned “incinerator works” a permitted activity status. The decision of the Commissioner stated:</p> <p><i>“I have concluded that it would be appropriate to restrict activities within the PC11 site transport activities (which there is an urgent need for expansion in association with existing activities), light industry, and activities established within the existing business, such as concrete batching.</i></p> <p><i>“The list of activities suggested by the applicant also included “incinerator works, distillation of coal, wood and bones, and timber fumigation”. I did not hear any evidence at the hearing which suggested to me why these particular activities were sought when other heavy industries were proposed to be excluded. However, I understand they are activities which the applicant may be undertaking elsewhere in the region. Bearing in mind that the PC11 site is located where it still has some vulnerability to natural hazards, and given the need to protect the amenity of the Clifton residential area, this further supports restricting the range of activities allowed on the site. While I am reluctant to adopt the philosophy of “it’s only a resource consent”, I consider that if the applicant wishes to provide for a wider range of industrial activities on the PC 11 site, the appropriateness of these can and should be tested through the resource consent process.”</i></p> <p>The Commissioner’s decision also includes incinerator works on the list of industries that are to be excluded from consideration as a light industry, thereby essentially making them a heavy industry that would require resource consent as a discretionary activity within the new Lake Street</p>

Submitter	Submission	Recommendation
		<p>industrial zone under the Operative District Plan.</p> <p>Removing reference to “incinerator works” in Appendix IX Schedule of Heavy Industries in the Proposed District Plan is not considered appropriate as this would have the effect of permitting this type of activity in the Industrial 1 Zone in areas where they may have adverse effects on nearby residential activity.</p>
<p><b>3.1 Blue River Dairy LP</b></p>	<p>Oppose.</p> <p>The submitter is concerned at the inclusion of “dairy processing” and ancillary activities within the Schedule of Heavy Industries.</p> <p>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.</p> <p>The submitter 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</p>	<p><b>Reject</b></p> <p>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 it is accepted that heavy industries that operate on a relatively small scale will generally have a lesser adverse effect on the environment, the expansion of any existing heavy industries operating in the Industrial 1 Zone in a situation where they benefit from existing use rights established under Section 10 of the RMA, is best assessed and controlled through the resource consent process.</p> <p>The more prescriptive centres-based approach to zoning under the Proposed District Plan is in part a response to significant resource management issues that have developed from, or not been appropriately addressed by, the approach taken in the Operative District Plan, particularly amenity conflicts at the interface of industrial and residential activity. In this respect it can be said that existing land use patterns and trends have informed the development of both the Proposed District Plan, and this Variation.</p>

Submitter	Submission	Recommendation
	<p>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>RELIEF SOUGHT:</p> <p>The submitter seeks the following decisions: That dairy processing activity is removed from Appendix IX – Schedule of Heavy Industries</p> <p>OR</p> <p>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</p> <p>OR</p> <p>Appendix IX – Schedule of Heavy Industries is amended to exclude dairy processing activity on sites up to 1.2ha in size.</p>	
<p><b>6.2</b> <b>Ballance Agri-Nutrients Ltd</b></p>	<p>Support in part.</p> <p>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.</p> <p>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</p>	<p><b>Accept</b></p> <p>It is accepted that the way the Schedule of Heavy Industries has been drafted could lead to the unintended consequence of classifying the temporary storage of smaller amounts of fertiliser, such as what might be found on a farm as part of an agricultural activity, as a heavy industry. Given that Rule 3.7 and Appendix VII of the Proposed District Plan have already established the level at which the storage of fertiliser is considered acceptable within in each zone, it would seem unreasonable to at the same time, classify the storage of fertiliser, regardless of the amount, as a heavy industry requiring consent in the likes of the Rural 1 and Rural 2 Zones.</p>

Submitter	Submission	Recommendation
	<p>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>RELIEF SOUGHT:</p> <p>Amend Section Five – Appendix IX – Schedule of Heavy Industries as follows:</p> <p><u>“Fertiliser manufacture, processing and storage, with the exception of storage included as a permitted activity under Rule 3.7.1.”</u></p> <p>OR</p> <p>Any similar amendments with like effects;</p> <p>AND</p> <p>Any consequential amendments that stem from the amendments set out above.</p>	<p>RECOMMENDATION:</p> <p>Amend Section Five – Appendix IX – Schedule of Heavy Industries as follows:</p> <p><u>“Fertiliser manufacture, processing and storage, with the exception of storage included as a permitted activity under Rule 3.7.1.”</u></p>
<p><b>10.1</b> <b>Kylie Fowler</b></p>	<p>Oppose in part.</p> <p>The submitter would like an “Oxford comma” to be included in the following Industrial Activities wording to remove any ambiguity: “Fertiliser manufacture, processing and storage”.</p> <p>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 storage</u>” was not allowed.</p> <p>RELIEF SOUGHT:</p> <p>Amend Appendix IX – Schedule of Heavy Industries as follows:</p> <p>“Fertiliser manufacture, processing<sub>1</sub> and storage”</p>	<p><b>Accept</b></p> <p>The amendment suggested by the submitter would clarify that fertiliser storage is intended to be a heavy industry in its own right, distinct from fertiliser manufacture and fertiliser processing.</p> <p>RECOMMENDATION:</p> <p>In addition to the amendments recommended in relation to submission 6.1 above, amend Section Five – Appendix IX – Schedule of Heavy Industries as follows:</p> <p>“Fertiliser manufacture, processing<sub>1</sub> and storage...”</p>

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## APPENDIX 2 - RECOMMENDED CHANGES TO VARIATION

(Underline indicates recommended additions to the Variation, ~~strikethrough~~ indicates recommended deletions.)

Note: The wording proposed in this Variation does not necessarily reflect the recommendations made by staff in response to submissions and further submissions on the Proposed District Plan. Decisions on original submissions and further submissions have yet to be notified. It is anticipated that decisions on the Proposed District Plan as notified will be released at the same time as decisions on this Variation and all and further submissions on these issues will be considered in the final drafting of the Proposed District Plan.

### SECTION FOUR - DEFINITIONS

**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.

### SECTION FIVE - APPENDICES

#### APPENDIX IX – SCHEDULE OF HEAVY INDUSTRIES

Acetylene-gas manufacture	Gelatine manufacture
Acids manufacture	Glass manufacture
Aerosol packers and manufacture	Glue manufacture
Aggregates processing	Gunpowder manufacture
Aluminium alloy manufacture	Gypsum manufacture
Alkali-waste works	Hydrochloric acid manufacture
Ammonia manufacture	Incinerator works
Ammunition manufacture	Industrial chemicals manufacture
Animal by-products manufacture	Iron works and foundry
Asbestos manufacture	Lacquer manufacture
Asphalt manufacture	Lead works
Battery manufacture and recycling	Leather tanning
Bearing manufacture	Lime manufacture
Bisuphide of carbon works	Linoleum manufacture
Boiler makers	Lucerne dehydration
Boiler manufacture	Manure (artificial) manufacture
Boiling down works	Meat Processing Facility
Bone boiling and crushing	Motor vehicle wrecking and crushing
Briquette manufacture	Natural gas, oil or petroleum distillation or refining
Bulk storage of asphalt, tallow, industrial chemicals and scrap metal	Oxygen – gas manufacture
Candle manufacture	Paint, varnish, lacquer etc. manufacture
Celluloid works	Petroleum based products manufacture
Cement – packing bag, cleaning works	Plastics manufacture
Cement manufacture	Pulp and paper manufacture
Chemicals manufacture	Pyridine works
Chlorine works	Railway workshops
Coke manufacture	Rubber goods manufacture
Concrete batching	Sandblasting

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, with the exception of storage included as a permitted activity under Rule 3.7.1. Fibreglass manufacture Fibrous plaster manufacture Fireworks manufacture and storage Fire clay products manufacture Fish curing and preserving Flax pulping Flock manufacturing Fluorine works Foundry Fur curing and tanning	Sale Stock yards (commercial) Sewage and septic 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
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