



## **PROPOSED INVERCARGILL CITY DISTRICT PLAN**

**Report No. 23**

**Smelter Zone**

**26 January 2015, 9.00am  
COUNCIL CHAMBERS  
CIVIC ADMINISTRATION BUILDING**

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# 1. EXECUTIVE SUMMARY

The “Smelter Zone” has attracted a small number of submissions, all but one from New Zealand Aluminium Smelters Ltd (NZAS).

The major issue is the extent to which the District Plan should address the possibility of NZAS Tiwai plant ceasing operations, and the consequent issues of site rehabilitation and/or alternate land uses.

The NZAS Smelter (the Smelter) at Tiwai Point pre-dates the Resource Management Act. Its consent dates from the 1953 Town and Country Planning Act, and is straightforward and permissive.

The Proposed District Plan places a policy emphasis on ‘functional need’ to justify a coastal location. The Smelter does have a functional need of a coastal location because of its requirements for import of raw material and export of product. It also has a ‘functional need’ of coastal space because it has invested in the site and been established there for many years.

This report takes the view that:

- (a) In the event of The Smelter closing, policies encouraging rehabilitation of the site are reasonable but any regulatory methods need to take account of the consent under which The Smelter was established.
- (b) Any new use in the coastal zone would need to justify its use of the site anew in terms of national and regional policy, environmental effect, and functional need of a coastal location

This report notes the potential for this site in relation to offshore oil or gas.

The second major issue raised in submissions is whether ‘port activities’ should be a permitted activity. The existence of the Tiwai Wharf and its associated cargo operations is acknowledged in the Proposed District Plan and is not considered to be a resource management issue of concern while the Smelter continues to operate as a smelter. The Proposed District Plan stops short of allowing ‘port activities’ carte blanche in the event of the Smelter closing. Any major development of this nature would raise issues that should be addressed anew via an application under the RMA or (most likely) a Plan Change.

Most of the other submission points relate to wording and semantics. Many make suggestions which would improve the Proposed District Plan.

## 2. INTRODUCTION

### 2.1 Report Author

This report has been prepared by William J. Watt. My company, William J Watt Consulting Ltd, offers consultancy services in planning and resource management including research, consultation facilitation, policy formulation and evaluation, hearings commissioner and mediation roles. I am currently the sole practitioner in that company.

I hold the qualifications of Bachelor of Arts and Diploma of Town Planning. I am a Full Member of the New Zealand Planning Institute and also a Fellow of the New Zealand Institute of Management. I am an accredited Hearings Panel Chairman under the MfE 'Making Good Decisions' programme and have mediator accreditation with LEADR. Before setting up my consultancy I had 40 years' experience in local government in regional, local and project planning and senior management roles. I have been practising as a planning consultant for just over four years.

### 2.2 Peer Review

This report has been peer reviewed by Dan Wells from John Edmonds and Associates Ltd. Dan Wells is a practising resource management planner with a variety of experience throughout the plan change preparation process. Dan has a Bachelor of Resource and Environmental Planning (Hons) and a Post Graduate Diploma in Development Studies, both from Massey University.

### 2.3 How to Read this Report

This report is structured as follows:

- Interpretation (an explanation of some of the terms used).
- A summary of the hearing process.
- Background to the Smelter Zone topic, and the provisions of the Proposed Invercargill City District Plan 2013.
- 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 relating to the Smelter Zone

To see my recommendation on an individual submission please refer to the table in **Appendix 1**. The table sets out the name and relevant submission number of those that submitted on the Smelter provisions; 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:

"*AEE*" means Assessment of Environmental Effects

"*Council*" means the Invercargill City Council

"*FS*" means further submitter in **Appendix 2**

"*Hearing Committee*" means the District Plan Hearing Committee

"*ICC*" means Invercargill City Council

“NES” means National Environmental Standard  
“NPS” means National Policy Statement  
“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  
“PSRPS” means the Proposed Southland Regional Policy Statement 2012.  
“RMA” means the Resource Management Act 1991  
“Submitter” means a submitter to the Proposed District Plan.

## 2.5 The Hearing Process

Several hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been arranged in such a way as to ensure that submissions on similar issues are grouped together, and to enable the District Plan Hearing Committee to make decisions on the provisions relating to those issues. This report applies to the Smelter provisions of the Proposed District Plan.

The Hearings Committee is comprised of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. This Committee is to consider the Proposed 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 in 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. This 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 after 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:

- (a) the hearing should be reconvened to allow responses to any report prepared, or
- (b) any responses be submitted in writing within a specified timeframe.

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, if they wish, may 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

This report relates to the provisions in the Proposed District Plan relating to the Smelter Zone at Tiwai Point. These provisions include: Section 2.43, containing the zone-specific issues, objectives and policies, and section 3.41, containing the rules. There are also implications for the “Definitions”.

The NZAS website indicates that in the 1960’s Tiwai Point was chosen as the location of an aluminium smelter for a variety of reasons. From a New Zealand-wide perspective, the following factors were relevant to the siting of the Smelter:

- The national need to increase export earnings.
- The construction of the electricity generation facility at Deep Cove, the availability of large quantities of electricity required for a smelter, and the manageable transmission distance from Deep Cove to Tiwai Point.
- The combination of flat land and easy access to port facilities that would be necessary and could be readily developed.
- Downstream industry was anticipated, and the flat land between Invercargill and Tiwai and the Tiwai Peninsula itself were seen as ideal for the purpose.
- It was anticipated that a smelter and downstream activities would be a major generator of employment, both in itself and in downstream activities.

It was planned with confidence that Invercargill’s population could be expected to increase to around 100,000 by the turn of the century. Significant infrastructure was planned and much was built in anticipation of this development. (An example is the areas of services laid for urban expansion in South East Invercargill.)

There was little controversy at the time over the siting of The Smelter at Tiwai. The matter of the construction of a smelter was, however, part of the “Save Manapouri” controversy, which was occasioned by the proposal for the West Arm-Deep Cove tunnel and the proposed power station at Deep Cove and which, until there was a change in government, involved raising the level of Lake Manapouri. “Save Lake Manapouri” was New Zealand’s first, big environmental controversy and was acknowledged by Sir Jack Marshall (then Prime Minister) as the deciding factor in the defeat of his government at the next general election.

At that time the area was within the jurisdiction of the Southland County Council and the relevant planning legislation was the 1953 Town and Country Planning Act. On file at the Invercargill City Council is a letter dated 27 June 1969 from the Southland County Council advising regarding an application by Comalco Aluminium Ltd. The following is relevant:

*“The (Southland County) Council, having previously resolved to bring down a change to its District Scheme by rezoning Block XIII, Campbelltown Hundred, from Rural to Industrial D, resolved, on the grounds of urgency, that the application be approved and that the applicant be permitted to use the site for the following purposes:*

- (i) To construct an Aluminium Smelter and ancillary services and amenities including caretakers’ quarters.*
- (ii) To erect and occupy a construction camp for construction workers.*
- (iii) To carry out such works as may be appropriate to aid the establishment of the Smelter.*
- (iv) From time to time to construct additions to the Smelter and ancillary services.*
- (v) To operate the Smelter and expansions from time to time and ancillary services connected therewith.*
- (vi) To establish and operate any other allied industry from time to time.*

*“The Council’s consent was, however, granted subject to the condition that The Smelter and its ancillary services are built and operated in accordance with standards*

*and requirements laid down by the Health Department and the Pollution Advisory Council.”*

The Smelter commenced operations in 1971.

The Smelter remains a very significant part of the Southland economy, and contributes currently around \$525 million (10.5% of Southland's GDP). Employment created and sustained by the Smelter is a very important part of Invercargill's economic base.

The 1969 'planning approval' made no provision for the eventual closure of the Smelter and rehabilitation of the site. This possibility surfaced as a serious issue only comparatively recently, in the context of public statements made by NZAS in relation to negotiating long-term electricity pricing.

It is appropriate to note that about this time, my understanding is that a water right was granted by the then Southland Catchment Board to enable the Smelter to take water from what is known as the Tiwai aquifer. That is how the Smelter still obtains its fresh water. The Tiwai aquifer has to be managed carefully in that if the water take is too large, there is a risk of salt water incursion – which would destroy the integrity of the supply. To address that possibility, the Smelter has an agreement with the Invercargill City Council to the effect that the Council will supply water to Tiwai if the integrity of the aquifer is threatened. The fiscal implications of this possibility for the Council would be significant. Water supply is therefore a very real consideration for any use of the site other than for an aluminium smelter under the current agreements.

Another important consideration for any future use would be the capacity and life expectancy of the road bridge across Awarua Bay, and any associated agreements between the Council and the Smelter.

The Smelter operates pursuant to a series of discharge consents, both to air and to water, administered by Environment Southland. It is relevant to note the very good track record of the Smelter in achieving compliance and in improving its environmental footprint.

The philosophy of the Operative District Plan is to enable the operation of the Smelter unhindered within the confines of its site but to control the effects of the operation of the Smelter at the boundaries of the site. This approach is carried through to the Proposed District Plan without significant changes. The policies have been strengthened and the possibility of the Smelter ceasing operations within the tenure of the Plan has been considered.

### **3.1 Issues, Objectives and Policies**

In the Zone-Specific section of the Issues, Objectives and Policies, the provisions especially relevant to the Smelter are set out at 2.43 (pages 2-177 – 2-180). They focus on maintaining and protecting the operational requirements for the Smelter, minimising adverse effects on amenity values on neighbouring sites, and also on addressing maintenance and rehabilitation of the site.

### **3.2 Rules**

The Rules in relation to aluminium smelting are set out at Section 3.41. Basically, aluminium smelting and agriculture are permitted activities – anything else is non-complying. (Land at Tiwai not actually utilised for aluminium smelting and associated activities is used for agriculture or remains in indigenous vegetation).

## 4. Statutory Context / Legislative Requirements

### 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 or plan change, a local authority may decline, approve, or approve with modifications, the plan or change, and shall give reasons for its decisions.

Under Section 74 of the RMA, when preparing or changing its district plan a council must consider Part 2 of the Act (purposes and principles), Section 32 (alternatives, benefits and costs) and relevant regional and district and iwi planning documents.

#### 4.1.1 Part 2 of the RMA

Part 2 of the RMA (Sections 5-8) sets out its purpose and principles of the Act. The purpose of the RMA is set out in Section 5. I confirm that the provisions for managing the Smelter at Tiwai fall within the purpose of the Act.

Section 6 of the RMA sets out matters of national importance which must be recognised and for which provision must be made. One of these matters is (d) – *the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers*. It has to be recognised from the outset that the operational requirements of the Smelter and security considerations preclude unfettered public access to the coastal marine area. Conversely, because the matter is a national priority, public access to the coastal marine area should not be precluded unnecessarily and needs to be actively planned for.

Section 7 of the RMA sets out “other matters” for ‘particular regard’. The most relevant matters 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*
- (g) *Any finite characteristics of natural and physical resources*
- (i) *the effects of climate change*

It is considered that the provisions relating to the Smelter in the Proposed District Plan demonstrate particular regard to these matters.

Section 8 of the RMA obliges persons exercising functions and powers under the RMA to take account of the principles of the Treaty of Waitangi. Representatives from Te Ao Marama Inc have been part of the Plan Review process as members of the Council’s Plan Group that worked on developing the Proposed District Plan. Consultation with Iwi has also occurred. While it became apparent that the Iwi representatives consider that much had been compromised by the initial location of the Smelter on Tiwai Peninsula, its continued operation did not appear to be the cause of ongoing concern. Its eventual closure, and whatever replaces it, would be.

The Smelter provisions in the Proposed Plan raise issues of national importance and issues to which the Council must have particular regard.

Under Section 5 of the Act, managing the use of resources (in this case, an established use in the coastal environment) to 'enable' communities to provide for their wellbeing (in this case – economic – 10.5% of the region's GDP) – in my opinion justifies the permissive approach of the Plan for this Zone.

This has to be balanced against the Section 6 matters, in particular the protection of the coastal environment and associated physical resources, and the maintenance of public access along it. This is particularly relevant in considering options for the site following any closure of the current Smelter operations.

There can be little doubt that the Smelter would have faced a much sterner test had it been proposed after the enactment of the RMA. However that is irrelevant, because the Smelter had been legally established and operating for over 20 years when the RMA was enacted.

What has to be considered now under the RMA is any change to the Smelter and its operation.

#### **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. One of the functions set out in Section 31(1)(a) is:

*“The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.”*

Under Section 31(1)(b) of the RMA a territorial authority is required to “... control ... any actual or potential effects of the use, development, or protection of land ...”

The Smelter-related provisions in the Proposed District Plan include policies, and methods intended to manage the actual or potential effects of smelter-related activities and reverse sensitivity issues.

Again, if the Smelter was being considered as a new development, today, issues would need to be addressed. However, the Smelter is legally established, and what has to be considered now under the RMA is any change to the Smelter and its operation, and long-term use of the site.

#### **4.2 The Relevant Planning Documents**

The RMA specifies other documents to which District Plans shall give effect and with which they are not to be inconsistent. The Council is required to take these documents into account in making decisions.

A district plan must give effect to

- (a) Any national policy statement, and
- (b) Any new Zealand Coastal Policy Statement, and
- (c) Any regional policy statement

A district plan must also not be inconsistent with:

- (a) A water conservation order, or
- (b) A regional plan

When making decisions the Council is required to take into account any relevant Iwi Management Plan and also have regard to any

- (a) Proposed regional policy statement, or
- (b) Proposed regional plan, and
- (c) Management plans and strategies prepared under other Acts.

#### **4.2.1 National Policy Statements**

The National Policy Statement on Electricity Transmission

- acknowledges the national significance of the national grid, which now has to be considered in local decision making on resource management.
- recognises the national benefits we all get from electricity transmission, such as better security of supply of electricity.
- gives guidance to local decision makers in the management of the impacts of the transmission network on its environment.
- guides the management of the adverse effects of activities from third parties on the grid. This will help reduce constraints on the operation, maintenance, upgrading and development of the grid.
- ensures long term strategic planning for elements of the National Grid.

This is dealt within the Infrastructure sections of the Proposed District Plan but it should be noted here that under the NPS the National Grid lines supplying the Smelter have the status of a permitted activity.

The National Policy Statement for Renewable Electricity Generation is not applicable to the Tiwai Point Aluminium Smelter.

The NZ coastal policy statement (led by the Department of Conservation) has six objectives:

- To safeguard the integrity, form, functioning and resilience of the coastal environment
- To preserve the natural character of the coastal environment and protect natural features and landscape values
- To take account of the principles of the Treaty of Waitangi,
- To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by
- To ensure that coastal hazard risks taking account of climate change, are managed
- To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development

The NZCPS would need to be considered in relation to any extension or intensification or alteration of the smelting activities carried out at Tiwai. It is certainly relevant to management of the site in the event that the Smelter ceased operations. The sixth objective is relevant to the intent of the Smelter Zone – which basically is to enable the Smelter to continue operations.

The National Policy Statement for Freshwater Management pertains to the water resource and is within the bailiwick of Environment Southland. The Smelter's dependence on the Tiwai aquifer for freshwater supply, and therefore on the sustainability of that aquifer, is noted here.

## **4.2.2 National Environmental Standards**

The following standards are in force as regulations and must be met in the Smelter Zone

### **4.2.2.1 Air quality standards**

The NES is made up of 14 separate but interlinked standards. The 14 standards in the NES include seven standards banning activities that discharge significant quantities of dioxins and other toxics into the air, five standards for ambient (outdoor) air quality, a design standard for new wood burners installed in urban areas, a requirement for landfills over 1 million tonnes of refuse to collect greenhouse gas emissions. This NES is within the bailiwick of Environment Southland.

### **4.2.2.2 Sources of human drinking water standard**

This does not relate directly to the Smelter Zone.

### **4.2.2.3 Telecommunications facilities**

This relates mainly to cell phones. The electricity-intensive nature of the Smelter operation makes it unlikely that a cell phone facility would be contemplated within the Zone.

### **4.2.2.4 Electricity transmission**

The NES sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and upgrade of existing lines. It needs to be considered within the "infrastructure" section of the Plan.

### **4.2.2.5 Assessing and managing contaminants in soil to protect human health**

This has its own section within the Plan.

## **4.2.3 Regional Policy Statements**

Under Sections 74 and 75 of the RMA, the Council shall give effect to any operative regional policy statement and have regard to any proposed regional policy statement

In this case two sets of documents must be considered:

1. The Operative Regional Policy Statement (1997)
2. The Proposed Regional Policy Statement (2012)

A number of issues in these documents pertain to the Smelter Zone. The zone is in the coastal environment and also in a zone subject to natural hazard (in particular, sea level rise and tsunami). However, the Smelter was in existence and operating well before the adoption of the Operative Regional Policy Statement or the promulgation of the Proposed Regional Policy Statement.

The general thrust of these documents is that the qualities and attributes of the coastal environment need to be considered in planning for the coast, and that specific provision must be made for activities that have a functional need of a coastal location (such as ports).

The Smelter does have a 'functional need' of a coastal location – put simply, it must be within conveyor distance of a wharf for import of raw material, and within

convenient transportation of port facilities for export of product. It has a functional need of the plant and equipment that are already on site. The direction given by the Regional Policy Statements is, however, relevant to whatever might follow aluminium smelting as a use for the site in the event that the Smelter ceased operations.

#### 4.2.4 Regional Coastal Plan

The Regional Coastal Plan for Southland (RCPS) was approved by the Minister of Conservation and made operative on 10 September 2008.

Its ambit includes

- the coastal marine area
- an area of coastal dominance
- an area of coastal influence
- an area of coastal hinterland

It is accepted that the Smelter Zone lies within the ambit of the RCPS .

Under Part B of the RCPS the following issues are noted that (in my opinion) would need to be addressed in the Proposed District Plan:

(Chapter 3 page 27)

- Abandoned structures can be visually unattractive, and a clear threat to public safety and property
- Port facilities and activities can affect the natural values of the harbour, water quality, amenity, views and noise.

(Chapter 3 page 29)

- Lack of access to the area and consequent need to preserve access along the beaches
- Threat of activities in the coastal marine area adversely affecting the natural values of adjoining coastal environment.

Section 4 of the RCPS deals with 'Fundamental Principles'. Objective 4.2.1 is particularly relevant:

*"To ensure that only those activities and developments that have a functional need to be located in the coastal marine area or for which there is no practicable alternative location outside the coastal marine area are situated there" (Chapter 4 page 5).*

The corresponding policies require that a coastal location be justified, alternatives be considered, and the size be the minimum required.

The general thrust of the RCPS is that provision be made within the coastal environment for activities which require a coastal location, but that the coastal environment be managed conservatively having careful regard to conservation of its natural values.

Put simply, if the Smelter was a new project, its need for and use of its site at Tiwai Point would need to be justified against the provisions of the RCPS but would not be precluded by them.

#### 4.2.5 Iwi Management Plans

Ngai Tahu has lodged an Iwi Management Plan with the Council. The relevant document is Te Tangi a Taurira – the Cry of the People.

The general thrust of this document with respect to the coast is that it is a finite resource, and has multiple values both intrinsically and for people. Use of the coast needs to be carefully considered, with the multiple values of the coast taken into consideration.

Again to put the issue simply – if the Smelter was under consideration as a new project and the Tiwai Point site undeveloped, the general tenor of Te Tangi a Taiura would be to oppose it as being inconsistent with conservation of coastal values.

That caution, implicit throughout Te Tangi a Taiura, needs to be incorporated in any plan provisions that apply after smelter closure.

#### **4.2.6 The Operative District Plan**

The Operative District Plan makes provision for a Smelter Sub-Area. The ‘permitted activities’ list focusses on aluminium smelting and related activities, but includes ‘industrial activities’. ‘Agriculture’ is also included – to allow for use of the areas not actually occupied by the Smelter.

Possible closure of the Smelter was not considered in the Operative Plan provisions.

#### **4.3 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.

##### **4.3.1 Conservation Act 1987 – Conservation Management Strategy**

The most up to date and relevant document is the Conservation Management Strategy 2014-2024 (CMS). The version used in this report is the June 2013 draft. The Conservation General Policy (2005) requires that regard be given to local government planning documents. In turn, local government planning processes are required to have regard to the Department’s statutory plans when preparing documents under the RMA.

The coastal environment of the Invercargill City District is within the “Awarua Place”, described in the CMS as follows: “*The Awarua Place extends from Fortrose Spit in the east, to Omaui and New River Estuary in the west and The Bluff/Motupōhue in the south*”. The values and attributes of the “Awarua Place” are set out in pages 98-105 of the CMS, together with the management philosophy of the Department of Conservation for this area. The following (from page 100) applies to Tiwai Peninsula:

*“Tiwai Peninsula has a mosaic of indigenous vegetation including areas that are dominated by the largest remaining expanse of red tussock land nationally, as well as lowland harakeke/flax (*Phormium tenax*), shrub species and rārahu/bracken (*Pteridium esculentum*). It is also the southern limit for several plants, such as glaucous speargrass (*Aciphylla glaucescens*) and tūmatakuru/matagouri (*Discaria toumatou*). Tōtara forests are thought to have once been the dominant indigenous vegetation cover, but this was progressively lost following the arrival of humans. However, there are stands of regenerating tōtara forest within this area. The peninsula provides habitat for several threatened and at risk species, including *Libertia perigrinans*, *Raoulia aff. hookerii*, southern sand daphne, plus the declining forget-me-not *Myosotis pygmaea* and tātarakehe/sand coprosma (*Coprosma acerosa*).”*

In my view the approach taken by the District Plan to the Aluminium Smelter at Tiwai Point, which (in summary) respects the 1967 consent given to Comalco, is consistent



with the CMD in that the District Plan is not creating the opportunity for further development or alternative industrial uses.

#### **4.3.2 Local Government Act 2002**

The Big Picture, a non-statutory spatial plan prepared by the ICC, is relevant.

Map 31 refers to Tiwai. The Plan records the following values:

- Site of the internationally significant Tiwai point Aluminium Smelter enterprise
- Significant network corridors – following the lines of the road and access bridge, and the overhead electricity lines 110 kv or greater
- Burial sites of significance to tangata whenua.

The Big Picture records the following issues:

- Maintaining the functionality of the Tiwai Point Aluminium Smelter
- Enhancing Public Access around the Tiwai point Shoreline
- Maintaining the integrity of network corridors.

In my view the approach taken in the proposed District Plan is consistent with The Big Picture.

## 5. ANALYSIS OF THE SUBMISSIONS

The planning issues pertaining to the Smelter Zone are, in summary:

- (a) The degree of protection that should be afforded to the existing Smelter at Tiwai Point
- (b) The extent to which the Plan should enable the Smelter to 'internalise' its land use effects
- (c) The 'amenity values' of the zone and the way they are reflected in the District Plan.
- (d) The extent to which the Smelter Zone should incorporate the provisions of the Seaport Zone
- (e) The extent to which the District Plan needs to make provision for the eventual closure of the Smelter.

### 5.1 The degree of protection afforded to the existing Smelter

Under its original planning approval the Smelter has the right to operate virtually unconstrained by land use conditions. The reality of this situation is reflected in the present zoning.

The philosophy of the Proposed District Plan closely mirrors that of the Operative Plan: That is, to recognise the Smelter Zone as a discrete zone occupied by one enterprise. That enterprise is best placed to regulate the effects of land use within the zone because it both causes and 'suffers' the effect. The role of the District Plan is to regulate effects of the Smelter operation on other land uses outside of the zone. That approach is supported by NZAS and not opposed in principle by anyone else.

### 5.2 The extent to which the Plan should enable the Smelter to 'internalise' its effects.

Again, the philosophy of the Proposed District Plan closely mirrors that of the Operative District Plan. In terms of 'effects' the important issue is the 'effect' on properties outside the Smelter Zone. Because the whole site is in one ownership, there are no neighbours 'inside' the zone.

### 5.3 Amenity values

This topic has already been considered in my earlier S 42A report on "Amenities"

### 5.4 The extent to which the Smelter Zone should incorporate the provisions of the Seaport Zone

South Port opposes Rule 3.41.1 in part. The submitter considers that Seaport Activities should also be included in the list of activities that are permitted within the Smelter Zone, and seeks the inclusion of Seaport Activities as a permitted activity.

At page 4-15 the definition of Seaport Activities reads as follows:

*Means those activities, buildings and structures associated with, and necessary for, the loading and unloading of goods and materials to and from ships and boats and their associated storage, handling, consolidation, and distribution. This includes, but is not limited to, associated administration activities, staff facilities and infrastructure, and also includes the repair, maintenance and servicing of ships and boats, border control activities, and facilities for the use of passengers including associated vehicle parking.*

(Note that I have recommended minor changes to this definition as part of my Section 42A report on the Seaport Zone)

While the logic of recognising the port-related activities pertaining to smelter operations such as the wharf and cargo-handling areas is obvious, the logic of permitting the creation of a seaport as a permitted activity within the Smelter Zone is more debatable. The issue is academic whilst NZAS remains the owner and in control of what happens on site, the Smelter continues in operation and any port development is associated with or ancillary to aluminium smelting. However the possibility of the Smelter discontinuing operation and the site being sold needs to be considered. Any use of the area as a seaport unrelated to the Smelter (e.g. in relation to offshore oil servicing) may be in the national and regional interest but raises a whole host of issues in terms of effects that would need to be considered and the national, regional and local policy framework against which the proposal would need to be assessed. This would be achieved most appropriately by way of a future RMA application (most likely a Plan Change) and should not be anticipated now. Neither should such activities be permitted at this stage.

## **5.5 The extent to which the District Plan needs to make provision for the eventual closure of the Smelter**

NZAS opposes Policy 10 – Rehabilitation and re-use of the site – and wants it deleted.

Uncertainties regarding the future of the NZAS Smelter at Tiwai were prominent in local media during the preparation of the Proposed District Plan. This contrasts with the situation during the preparation of the Operative District Plan, when the option of closing the Smelter was seldom raised in consultation. The RMA requires District Plans to be reviewed every ten years and if, within the ten year tenure of the plan, closure of a large industry is a possibility, then the land use effects of that closure need to be addressed in the Plan.

On the one hand, the tenor of the Regional Policy Statement and the high priority it places on the quality of the coastal environment are a strong imperative to address the issue of rehabilitation. On the other hand, the matter of eventual closure was, clearly, not considered at the time Comalco was granted planning approval to establish and operate the Smelter. In my view Policy 10 is a reasonable compromise.

The site is subject to natural hazard, particularly tsunami and sea level rise. This may or may not impose constraints on other industries that might be attracted to the site but the possibility of other industrial activities on the site would need to be addressed by way of a future RMA process (most likely, a Plan Change).

## **5.6 Minor Changes**

In a number of instances NZAS has suggested changes to the wording which, with one or two exceptions, are in my view an improvement on the original and should be accepted.

It should be noted that there were no submissions regarding public access around the Tiwai Peninsula. Public access to the coast is restricted owing to security and operational issues associated with the Smelter. Access can be arranged through the Smelter for bona fide access to much of the coastal fringe but it is not available unimpeded and as of right. The NZCPS places a high priority on public access and it is definitely a consideration for any future use or redevelopment of this site.

## 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. This Section of the RMA was recently amended (since the notification of the proposed District Plan) and the following summarises the current requirements of this section.

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 to examine policies and rules to determine whether they are the most appropriate way to achieve the objectives. In this instance, the objectives are those proposed by the 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.

An Evaluation Report was released at the time of notification of the Proposed Plan.

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.

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 Committee recommends minor changes from what was in the Proposed Plan, a further evaluation can be relatively brief.

### 6.1 Relevant Section 32AA Matters

The following are the matters considered relevant for further evaluation under Section 32AA of the RMA.

- Minor changes to the introductory text, objectives, and policies
- Minor changes to the rules to clarify what is covered by 'aluminium smelting'
- Minor changes to the definitions

The detail of the proposed changes to which this evaluation refers are set out in **Appendix 2**.

### 6.2 Section 32AA Further Evaluation

The "Smelter Zone" section of the original Section 32 report (pages 243 - 247) is relevant to this report. The changes proposed are within the scope of the original evaluation findings and do not raise any additional matters for consideration.

The changes that are recommended are minor. It follows that the environmental, economic, social or cultural effects anticipated to arise as a consequence of the changes are minor. A detailed assessment or quantification of costs and benefits is neither practical nor necessary with respect to the plan provisions pertaining to the Smelter Zone.

## **7. CONCLUDING COMMENTS**

The recommended approach respects the 1967 planning consent given to Comalco to establish and operate the Smelter and retains considerable flexibility to enable the Smelter to continue to operate, contributing significantly to the economic and therefore other well-beings of the community.

The Proposed District Plan is precise in that the permitted activities are those relating to the Smelter and its continued operation.

Apart from a policy encouraging rehabilitation of the site, the Proposed District Plan does not address land use issues arising from the Smelter ceasing operations.

It is appropriate that the Smelter be able to continue to operate as a permitted activity but that any new use of the site unrelated to the Smelter would need to be considered under the RMA as it stands at the time.

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## APPENDIX 1 – RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

Submitter	Plan Provision/Submission	Recommendation
<b>SECTION TWO – ISSUES, OBJECTIVES AND POLICIES</b>		
<b>2.43 Introduction</b>		
71.28 NZAS Ltd	<p><b>Introduction:</b></p> <p>The submitter considers the introduction should refer to the wharf at Tiwai Point as it is considered an integral part of their operation.</p> <p><b>DECISION SOUGHT</b></p> <p>Amend Introduction as follows:            “The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for <u>Tiwai Wharf as part of its operations and a location adjacent to a port (for the import of raw materials) and within close proximity to port facilities at Bluff for export of product.</u>”</p>	<p><b>Accept</b></p> <p>Amend Introduction to read:</p> <p><i>The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for <u>Tiwai Wharf as part of its operations and a location adjacent to a port (for the import of raw materials) and within close proximity to port facilities at Bluff for export of product.</u></i></p>
<b>2.43.1 Issues</b>		
71.29 NZAS Ltd	<p><b>Issue 1:</b></p> <p>NZAS supports Issue 1. The submitter supports the recognition of the need to protect the Smelter’s operational requirements.</p> <p><b>DECISION SOUGHT</b></p> <p>Retain Issue 1</p>	<p><b>Accept</b></p> <p>No change in wording is necessary.</p>
<b>2.43.2 Objectives</b>		

Submitter	Plan Provision/Submission	Recommendation
71.30 NZAS Ltd	<p><b>Objective 1:</b></p> <p>NZAS supports Objective 1 - the recognition of the economic importance of the Smelter.</p> <p><b>DECISION SOUGHT</b></p> <p>Retain Objective 1</p>	<p><b>Accept</b></p> <p>No change in wording is necessary.</p>
<b>2.43.3 Policies</b>		
71.32 NZAS Ltd	<p><b>Policy 1:</b></p> <p>NZAS supports the wording of Policy 1 – Smelter Zone.</p> <p><b>DECISION SOUGHT</b></p> <p>Retain Policy 1</p>	<p><b>Accept</b></p>
71.33 NZAS Ltd	<p><b>Policy 2 – Noise:</b></p> <p>NZAS opposes the wording of Policy 2 – Noise - in part.</p> <p><b>DECISION SOUGHT</b></p> <p>NZAS requests that Policy 2 be amended as follows: <i>To provide for the opportunity to generate levels of noise in keeping with the operation of the Aluminium Smelter, whilst also recognising that residential areas in Bluff are entitled to “protection from unreasonable or excessive noise as part of their residential amenity in terms of freedom from noise.”</i></p>	<p><b>Accept</b></p> <p>The suggested wording is an improvement on the original. Amend Policy 2 to read:  <i>To provide for the opportunity to generate levels of noise in keeping with the operation of the Aluminium Smelter, whilst also recognising that residential areas in Bluff are entitled to “protection from unreasonable or excessive noise as part of their residential amenity in terms of freedom from noise.”</i></p>
71.34 NZAS Ltd	<p><b>Policy 3 – Odour:</b></p> <p>NZAS supports this Policy in part.</p> <p><b>DECISION SOUGHT</b></p> <p>NZAS requests that Policy 3 be amended as follows: <i>To accept</i></p>	<p><b>Accept</b></p> <p>The wording suggested by NZAS is an improvement. The grammar of the original is incorrect.</p> <p>Amend Policy 3 to read:  <i>To accept <del>that</del> odour emissions associated with aluminium smelting</i></p>



Submitter	Plan Provision/Submission	Recommendation
	<del>that</del> odour emissions associated with aluminium smelting activities whilst also ensuring the absence of objectionable odour.	activities whilst also ensuring the absence of objectionable odour.
71.35 NZAS Ltd	<p><b>Policy 4 – Glare:</b></p> <p>NZAS Opposes the wording of Policy 4 – Glare - in part.</p> <p><b>DECISION SOUGHT</b></p> <p>NZAS requests that Policy 4 be re-worded as follows: <i>To avoid, remedy or mitigate nuisance from glare. Explanation: The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.</i></p>	<p><b>Accept in part, reject in part</b></p> <p>The suggested rewording of the Policy to use the phrase ‘avoid, remedy or mitigate’ aligns with the RMA is therefore considered appropriate.</p> <p>Glare from the Smelter can, and has, affected ‘transportation networks’. The position of the Smelter, adjacent to the Port of Bluff, creates the potential for glare from a structure within the Smelter to affect navigation, particularly ships using the leading marks to transit the channels into Bluff Harbour. The reference to ‘transportation networks’ should stay.</p> <p>Amend Policy 4 to read:  <i>To avoid, remedy or mitigate nuisance from glare.</i>  <b>Explanation:</b> <i>The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.</i></p>
71.38 NZAS Ltd	<p><b>Policy 7 – Wind, signage, height</b></p> <p>NZAS supports the wording of Policy 7 – Wind ... – but notes that this demonstrates the inappropriateness of the broadness of Objective 2.</p>	<p><b>Accept in part :</b> The submitter’s support for this provision is noted.</p> <p>The issues with respect to Objective 2 were canvassed at the hearing on Amenity Values.</p> <p>No change in wording is necessary (unless required in response to recommendations relating to the Signage rule).</p>
71.39 NZAS Ltd	<p><b>Policy 8 – On-site servicing capacity</b></p> <p>NZAS supports the wording of Policy 8.</p> <p><b>DECISION SOUGHT</b></p>	<p><b>Accept</b></p>

Submitter	Plan Provision/Submission	Recommendation
	Retain	
71.40 NZAS Ltd	<p><b>Policy 9 – Hazardous substances</b></p> <p>NZAS supports the wording of Policy 9.</p> <p><b>DECISION SOUGHT</b></p> <p>Retain</p>	<p><b>Accept</b></p> <p>No change in wording is necessary.</p>
71.41 NZAS Ltd	<p><b>Policy 10 Rehabilitation and re-use of the site</b> NZAS opposes Policy 10</p> <p>The submitter does not consider the policy achieves its goal of encouraging appropriate adaption, reuse and remediation of the site as it is currently worded.</p> <p>The submitter opposes the requirement that buildings be “well-maintained” on the grounds that it believes the maintenance plan is a matter for its own determination and consideration.</p> <p>The submitter considers the term “demolition and replacement” is confusing as it implies that if a building is demolished then it should be replaced, when this may not be the best option. The submitter also notes that it is not clear how demolition is to be promoted.</p> <p>The submitter considers that the policy is open to misinterpretation as it is not clear whether it is intended to apply during the life of the Smelter or if part of it is only to apply once the Smelter is decommissioned.</p> <p><b>DECISION SOUGHT</b></p> <p>Delete</p>	<p><b>Reject in part</b></p> <ol style="list-style-type: none"> <li>1. Uncertainties regarding the future of the NZAS Smelter at Tiwai were prominent in local and national media during the preparation of the Proposed District Plan. This contrasts with the situation during the preparation of the Operative District Plan, when the option of closing the Smelter was seldom discussed. The RMA requires District Plans to be reviewed every ten years and if, within the ten year tenure of the plan, closure of a large industry is a possibility, then the land use effects of that closure need to be addressed in the Plan.</li> <li>2. The submitter does raise some legitimate points about the scope of the policy. While ill-maintained and derelict structures can adversely affect amenities of any area, in this instance it would be a legitimate issue for the Plan to address if a change of use was to be proposed or if Smelter activities were to be discontinued. It is acknowledged that there should be no presumption in favour of retaining, rather than demolishing, buildings in this zone. “Replacement” may not be the best option following demolition. Furthermore, this submission draws attention to the fact that the policy (as notified) focuses rather narrowly on buildings, when the broader issue may well be rehabilitation of the site.</li> <li>3. I recommend amending Policy 10 to read:  <b><i>“ Rehabilitation and re-use of buildings: In the event that smelter activities are discontinued, to encourage and where possible require the rehabilitation of the site, including removal, maintenance and/or adaptive re-use of buildings. <del>To require that buildings in the Smelter</del></i></b> </li> </ol>

Submitter	Plan Provision/Submission	Recommendation
		<u>Zone will be well maintained through their service life, and to promote their demolition and replacement, or adaptive re-use, if requirements change”</u>
<b>2.43.4 Methods of Implementation</b>		
<b>71.44 NZAS Ltd</b>	<p>Methods 1-2, 4,6-7</p> <p>NZAS supports methods 1,2,4, 6 and 7.</p> <p><b>DECISION SOUGHT</b></p> <p>Retain Methods 1,2,4,6,7</p>	<b>Accept</b>
<b>71.45 NZAS Ltd</b>	<p><b>Methods 3,5</b></p> <p>NZAS opposes Methods 3 and 5, on the basis that the submitter feels there is no justification for referring to amenity values in relation to the Smelter zone and for any requirement that they be identified. Further, the submitter considers that it is its place to determine the layout of the site and this may not be in accord with the amenity values that exist elsewhere in the city district.</p> <p><b>DECISION SOUGHT</b></p> <p>Delete Methods 3,5.</p>	<p><b>Reject</b></p> <p>This matter has been considered as part of the hearing on Amenity Values and at that point I recommended wording changes to clarify what is meant by the term ‘amenity values’ and how the concept should apply to this Zone. I recommended that the emphasis be placed on ensuring that adverse effects on amenity values are ‘internalised’ within the Zone. To align with those recommendations I recommend that Method 3 be amended to read:</p> <p><i><b>Method 3:</b> Identify the anticipated amenity values <u>in and around</u> <del>for</del> the Smelter Zone, include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other territorial authorities.</i></p> <p>I recommend, however, that Method 5 remains unchanged. While amenity values may not be what they once were as a result of the Smelter activities, it is not considered that the Zone is entirely devoid of amenity values. Some amenity values may be worth considering as part of any future resource consents and plan changes.</p>
<b>71.46 NZAS Ltd</b>	<b>Method 8</b>	<b>Accept</b>

Submitter	Plan Provision/Submission	Recommendation
	<p>NZAS opposes Method 8 in part, on the basis that it is too vague about who should be consulted.</p> <p><b>DECISION SOUGHT</b></p> <p>An amendment to Method 8 as follows: <i>Consult with stakeholders who may be affected by the operation of the Smelter, for example landowners and occupiers, Iwi, Central Government organisations, internal Council departments and local community and business groups.</i></p>	<p>The suggested wording is an improvement on the original.</p> <p>Amend Method 8 to read:</p> <p><b>Method 8:</b> <i>Consult with <u>stakeholders who may be affected by the operation of the Smelter, for example landowners and occupiers, Iwi, Central Government organisations, internal Council departments and local community and business groups.</u></i></p>
<b>SECTION THREE - RULES</b>		
<b>3.41 SMELTER ZONE</b>		
<p><b>24.69 South Port NZ Ltd</b></p>	<p><b>Rule 3.41.1</b></p> <p>South Port opposes Rule 3.41.1 in part.</p> <p><b>DECISION SOUGHT</b></p> <p>The submitter considers that Seaport Activities should also be included in the list of activities that are permitted within the Smelter Zone, and seeks the inclusion of Seaport Activities as a permitted activity.</p>	<p><b>Reject</b></p> <p>While the logic of recognising the port-related activities of the Smelter such as the wharf and cargo-handling areas are obvious, the creation of an entire seaport as a permitted activity within the Smelter Zone is not. The issue is academic whilst NZAS remains the owner and in control of what happens on site and the Smelter continues in operation. In the event of the Smelter closing and other uses being considered, an application under the RMA (most likely a Plan Change) would be appropriate.</p>
<p><b>FS2.45 NZAS Ltd</b></p>	<p><b>Rule 3.41.1</b></p> <p>NZAS supports “seaport activities” being included as a permitted activity in the Smelter Zone.</p> <p><b>DECISION SOUGHT</b></p> <p>As for 24.69 (above)</p>	<p><b>Reject</b></p> <p>On the same basis and for the same reason as 24.69 (above).</p>
<p><b>71.62 NZAS Ltd</b></p>	<p><b>3.41.1</b></p>	<p><b>Reject in part</b></p>

Submitter	Plan Provision/Submission	Recommendation
	<p>NZAS supports Rule 3.41.1 in part.</p> <p><b>DECISION SOUGHT</b></p> <p>The submitter seeks an expansion in the list of permitted activities for clarity: <i>The following are permitted activities in the Smelter Zone: (A) Agriculture other than plantation forestry. (B) Aluminium smelting and ancillary activities. (C) Business activities, including administration activities, training activities and professional and personal services</i>"</p>	<p>I believe this change is unnecessary and that changes are best made to the definition of Aluminium Smelting. My recommended response to submission 71.65 (below) recommends changes to the definition of aluminium smelting, making it clear that activities such as those sought by the applicant are enabled.</p> <p>The thrust of that recommended wording is that whatever happens on site should relate in some direct way to aluminium smelting because that is the purpose of the Smelter Zone.</p>
<p><b>71.63 NZAS Ltd</b></p>	<p><b>3.41.2</b> NZAS opposes Rule 3.41.2 in part.</p> <p><b>DECISION SOUGHT</b></p> <p>Clarification to the rule to read as follows: <b>Non-complying activities:</b> <i>The following are non-complying activities in the Smelter Zone: (A) Any other activity not listed as permitted, controlled, restricted discretionary or discretionary."</i></p>	<p><b>Accept</b></p> <p>Amending the Rule as submitted would add clarity.</p> <p>Amend Rule 3.41.2 to read: <b>Non-complying activities:</b> <i>The following are non-complying activities in the Smelter Zone: (A) Any other activity not listed as permitted, controlled, restricted discretionary or discretionary."</i></p>
<p><b>FS32.2 Placer Investments Ltd</b></p>	<p><b>3.41.2</b></p> <p>Support submission 71.63</p> <p>The further submitter supports the part of the submission that seeks recognition that other provisions within the Proposed Plan, that are not set out within the Smelter Zone section, will apply within the Smelter Zone.</p> <p><b>DECISION SOUGHT</b></p> <p>The submitter seeks an amendment to the activity status for 3.41.2 to be changed from non-complying to discretionary, or recognition that mining within the Smelter Zone is not a non-complying activity</p>	<p><b>Accept in Part</b></p> <p>The original submission this further submission supports is accepted. However, it is not accepted that mining within the Smelter Zone should be a permitted activity. As with the Operative District Plan, it is only earthworks provisions that are intended to be permitted. The placement of the rule after the heading 'Earthworks and Filling Activities' is evidence that it is intended that the exclusion for the Smelter Zone only applies to the Earthworks and Filling Activities rules and not those relating to Mineral Extraction. It is accepted that the numbering of the Plan and the wording of rule 3.17.1 as notified may make this unclear. It is recommended that this be rectified by making the following change:</p> <p><i>"3.17.1 <del>This r</del>Rules 3.17.2 to 3.17.6 does not apply in to the Smelter Zone."</i></p>

Submitter	Plan Provision/Submission	Recommendation
		<p>Mining cannot reasonably be foreseen as an activity within the Smelter Zone and is not one of the suite of activities that is seen as compatible with or ancillary to aluminium smelting. Further, mining has the potential to affect the Tiwai Aquifer, on which the Smelter depends for its water supply. Non-complying status for mining does not preclude it but does ensure that its effects are properly identified and addressed through the resource consent process.</p>
<b>DEFINITIONS</b>		
<p><b>71.65 NZAS Ltd</b></p>	<p><b>Aluminium smelting</b></p> <p>Support in part. The submitter considers that the term should be renamed “Aluminium smelting and ancillary activities” to support the activities carried out on the site that go beyond those typically considered to be smelting.</p> <p>The submitter also notes that the definition refers to the “industrial” activities of smelting, but highlight that there are activities on the site that support the core smelting business that are not industrial.</p> <p>The submitter would also like to recognise earthworks and firefighting and emergency services within the definition as these are considered core to the submitter’s operation</p> <p><b>DECISION SOUGHT</b></p> <p>Amend the definition of “Aluminium smelting” as follows:</p> <p><b>“Aluminium Smelting and ancillary activities:</b> Means the casting and smelting of aluminium, together with those industrial activities providing equipment, product or other inputs to these processes, and includes:</p> <p>(A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker’s accommodation, wharves, stores, roading,</p>	<p><b>Accept in Part</b></p> <p>It is recommended that the definition of “aluminium smelting” be changed to read:</p> <p><b><i>Aluminium Smelting:</i></b> Means the casting and smelting of aluminium, together with those industrial—and other ancillary activities providing equipment, product or other inputs to these processes, and includes:</p> <p>(A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker’s accommodation, wharves, stores, roading, parking and/or essential services.</p> <p>(B) Stockpiles, facilities and structures for the storage, loading and unloading.</p> <p>(C) The disposal and/or treatment of waste material and effluent associated with the above.</p> <p>(D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.</p> <p>(E) <u>Earthworks.</u></p> <p>(F) <u>Fire fighting and emergency services associated with aluminium smelting.</u></p> <p>It makes better sense to include ‘industrial and other ancillary activities’ within the text of the definition rather than in the words ‘and ancillary activities’ in the title.</p> <p>It is considered appropriate to include firefighting and emergency</p>

Submitter	Plan Provision/Submission	Recommendation
	<p>parking and/or essential services.</p> <p>(B) Stockpiles, facilities and structures for the storage, loading and unloading.</p> <p>(C) The disposal and/or treatment of waste material and effluent associated with the above.</p> <p>(D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.</p> <p><u>(E) Earthworks.</u></p> <p><u>(F) Activities associated with fire fighting and emergency services”.</u></p>	<p>services associated with aluminium smelting, without giving permitted activity status to any firefighting or emergency service.</p>

## APPENDIX 2: RECOMMENDED CHANGES TO PROPOSED DISTRICT PLAN

(New wording is underlined; deletions are struck through: ~~struck through~~)

### 2.43 **Smelter Zone**

The Smelter Zone offers the opportunity for the Aluminium Smelter industry to operate, maintain and upgrade an aluminium Smelter at Tiwai Point, along with associated industrial activities.

The Aluminium Smelter at Tiwai Point has been in operation since 1971. Employment, both directly at the Smelter and in associated services, accounts for a significant proportion of Invercargill's economic critical mass. The presence of a large aquifer means that the Smelter is self-sufficient in terms of water supply, and waste water is treated on-site. Environmental effects of the Smelter operation are continuously monitored and independently reviewed.

The characteristics of aluminium smelting activities include high noise, light and glare levels, the opportunity to generate odour emissions, the storage and use of hazardous substances and frequent use and visitation by heavy vehicles and hazard transporters.

The Smelter is sited at Tiwai Point within the coastal environment. It has a functional need of this site because of the need for Tiwai wharf as part of its operations a location adjacent to a port (for import of alumina) and within close proximity to port facilities at Bluff for export of product. Electricity supply and roading infrastructure have been constructed to meet the requirements of the smelting operation on this site.

At some stage the Smelter may be considered by its owners to have completed its operational life, and the facility may be closed. In that event, maintenance and rehabilitation of the site could be a significant issue.

The Smelter Zone adjoins recognised areas of indigenous biodiversity. There are a number of archaeological sites of heritage value within the Zone and more on the coastline adjoining the Zone.

**2.43.1** Issues – no change

**2.43.2** Objectives

**Objective 1:** Enabling a viable aluminium Smelter to operate at Tiwai Point, which is internationally competitive and which forms the basis for a significant part of the economic critical mass of Invercargill.

**Objective 2:** Identification, maintenance and enhancement of the amenity values.

**2.43.3** Policies

**Policy 1** **No change**

**Policy 2** **Noise:** *To provide for the opportunity to generate levels of noise in keeping with the operation of the Aluminium Smelter, whilst also recognising that residential areas in Bluff are entitled to protection from unsustainable or excessive noise as part of their residential amenity in terms of freedom from noise.*

**Explanation:** *The Tiwai Point Aluminium Smelter is sited on a peninsula surrounded on three sides by open sea or harbour. The nearest area likely to be affected by any*



significant noise is the town of Bluff, approximately two kilometres away to the west across the harbour. Privately owned farmland and isolated residences are located well over three kilometres north-west of the Smelter.

**Policy 3 Odour:** To accept ~~that~~ odour emissions associated with aluminium smelting activities whilst also ensuring the absence of nuisance from objectionable odour.

**Explanation:** *The isolated nature of the Tiwai Point Aluminium Smelter site and its large size mean that odours associated with process can be effectively contained on-site.*

**Policy 4 Glare:** To avoid, remedy or mitigate nuisance from glare.

**Explanation:** *The Aluminium Smelter is characterised by very large buildings and structures which have the potential to create glare. Significant glare from large structures can affect transportation networks and could affect those with distant views of the Smelter.*

**Policy 5 Electrical Interference:** No change

**Policy 6 Lightspill:** No change

**Policy 7** No change

**Policy 8** No change

**Policy 9** No change

**Policy 10 Rehabilitation and re-use of buildings:** In the event that Smelter activities are discontinued, to encourage and where possible require the rehabilitation of the site, including removal, maintenance and/or adaptive re-use of buildings. ~~To require that buildings in the Smelter Zone will be well-maintained through their service life, and to promote their demolition and replacement, or adaptive re-use, if requirements change.~~

**Explanation:** *The Smelter is located in the coastal environment, preservation of the natural character of which is a matter of national importance. If requirements change, adaptive re-use or replacement of existing buildings may make ~~makes~~ best use of the land resource and infrastructure together with addressing any contaminated land issues. Derelict industrial properties and poorly maintained industrial land could significantly detract from the amenities of the neighbouring town.*

**Policy 11** No change

**Policy 12 Connectivity:** No change

#### 2.43.4 Methods of Implementation

**Methods 1 -2** No change

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

**Methods 4 – 7** No change

**Method 8** Consult with stakeholders who may be affected by the operation of the Smelter, for example landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.

**Method 9** No change

### 3.17 Soils, Minerals and Earthworks

#### Earthworks and Filling Activities

3.17.1 This Rules 3.17.2 to 3.17.6 ~~does not apply in~~ to the Smelter Zone.

3.17.2 et seq: No change

### 3.41 Smelter Zone

3.41.1 Permitted Activities: The following are permitted activities in the Smelter Zone:

- (A) Agriculture other than plantation forestry.
- (B) Aluminium smelting.
- (C) Business activities associated with aluminium smelting, including administration activities, training activities and professional and personal services.

3.41.2 Non-complying Activities: The following are non-complying activities in the Smelter Zone:

- (A) Any other activity not listed as permitted, controlled, restricted discretionary or discretionary

### Definitions

**Aluminium Smelting:** Means the casting and smelting of aluminium, together with those industrial activities providing equipment, product or other inputs to these processes, and includes:

- (A) Associated infrastructure, administration, training activities, tourist activities, staff facilities, medical treatment facilities, caretaker's accommodation, wharves, stores, roading, parking and/or essential services.
- (B) Stockpiles, facilities and structures for the storage, loading and unloading.
- (C) The disposal and/or treatment of waste material and effluent associated with the above.
- (D) The storage and distribution of liquid or gaseous fuels associated with aluminium smelting.
- (E) Earthworks.
- (F) Fire fighting and emergency services associated with aluminium smelting.