



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 23 (A)

Smelter Zone
(Addendum to report 23)

26 January 2015, 9.00am
COUNCIL CHAMBERS
CIVIC ADMINISTRATION BUILDING

Reporting Officer: Liz Devery
Senior Policy Planner

Peer Reviewed by: Dan Wells
John Edmonds and Associates Limited

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

TABLE OF CONTENTS

	Page
1. Executive Summary	1
2. Introduction	2
2.1. Report Author.....	2
2.2. Peer Review.....	2
2.3. How to Read this Report	2
2.4. Interpretation.....	2
2.5. The Hearing Process.....	3
3. Background	4
3.1 Outstanding submission	4
4. Statutory Context / Legislative Requirements	5
4.1 New Zealand Coastal Policy Statement.....	5
4.2 Regional Policy Statements.....	5
4.3 Regional Coastal Policy Statement for Southland	6
5. Analysis of submissions	7
6. Discussion of Section 32 matters	8
6.1 Section 32AA further evaluation	8
Appendix 1 - Recommendations in response to submissions	9
Appendix 2 - Proposed Invercargill City District Planning Maps	11

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

1. EXECUTIVE SUMMARY

A submission point in relation to the Smelter Zone was omitted from Report 23. This supported the Smelter Zoning as identified on the Planning Maps. The boundaries of the Smelter Zone as notified remain as in the Operative District Plan. It is recommended that the boundaries are retained as notified.

2. INTRODUCTION

2.1 Report Author

My name is Elizabeth Ann Devery. I am the Senior Planner – Policy at the Invercargill City Council, a position I have held since January 2003. I have over 14 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. I hold the qualifications of LLB/BA (Hons I) in Geography.

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 zoning.
- Description of the statutory framework within which the proposed provisions have been developed.
- Analysis of the submission.
- Assessment of the proposed changes under Section 32 of the RMA.
- Concluding comments.
- Recommendations on individual submissions.
- Proposed District Planning Maps showing the location of the Smelter Zone

To see my recommendation on the 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 zoning; 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 boundaries of the Smelter Zone as shown on the Proposed District Planning Maps.

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 mapping of the Smelter Zone in the Proposed District Plan. The boundaries of the Smelter Zone have remained unchanged from the Smelter Sub-Area boundaries in the Operative District Plan.

The Smelter Zone is a discrete Zone located within a rural environment. It adjoins the Bluff Harbour on Tiwai Peninsula and is located within the Coastal Environment.

The Zone reflects the boundaries of the properties owned by New Zealand Aluminium Smelters Ltd and Comalco NZ Ltd. It comprises of approximately 405ha.

3.1 Outstanding submission

There is one outstanding submission that supports the adjoining Rural 1 Zoning of the land adjoining the Smelter Zone. This submission is not addressed in this report but will be covered in the reports covering the Rural zones.

4. Statutory Context / Legislative Requirements

The statutory context and legislative requirements relating to the Smelter Zone have been covered in the s42A Report 23 Smelter Zone. Of particular relevance to the issue raised by the submission point covered by this addendum are the New Zealand Coastal Policy Statement, the Regional Policy Statements and the Regional Coastal Plan for Southland.

4.1 New Zealand Coastal Policy Statement

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand coastal policy statement.

One of the Objectives from the NZCPS is to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development. This is relevant to the intent of the Smelter Zone.

The concept of ‘functional need’ as raised in Policy 6 of the NZCPS is also of particular relevance to this submission.

“Policy 6 Activities in the coastal environment

1. In relation to the coastal environment:
 - e. consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;
2. Additionally, in relation to the coastal marine area:
 - a. recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;
 - c. recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;...”

Arguably the Smelter has a functional need for its location, for historic and operational reasons. The submitter is not seeking an extension or change of zoning or extension further into the coastal environment.

There is also some emphasis in the NZCPS promoting public access to the coast. The seaward boundaries of the Smelter Zone are almost completely surrounded by land owned by the Department of Conservation (apart from a section of about 600m). It is my understanding that public access to the coast can be restricted due to operational requirements, however if approached access may be able to be arranged. The submission does not seek to amend the boundaries of the Zone and as such access to the coast will be maintained.

4.2 Regional Policy Statements

Under Section 75 of the RMA, a District Plan must give effect to an Operative Regional Policy Statement. Also, in accordance with section 74, regard needs to be given to any proposed Regional Policy Statement.

As stated in the s42A Report 23 Smelter Zone, a number of issues in these policy statement are relevant to the Smelter Zone. The zone is in the coastal environment and also in a zone subject to natural hazard.

The general direction 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. There is also some emphasis on access to the coast.

As stated earlier, arguably the Smelter does have a 'functional need' of a coastal location and with the boundaries remaining unaltered, access to the coast will be maintained.

4.3 Regional Coastal Plan

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. The Regional Plan of most relevance to the issue raised in the submission is the Regional Coastal Plan for Southland. The general thrust of the Regional Coastal plan for Southland 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.

The proposed zoning is not inconsistent with the Regional Coastal Plan. The Smelter was in existence and operating lawfully prior to the coastal plan having effect. Also, as stated earlier in this report, and in the s42A Report 23 Smelter Zone, the Smelter arguably has a functional need for its location.

5. ANALYSIS OF THE SUBMISSION

Only one submission point is addressed in this Addendum report: submission 71.69 lodged by NZAS Ltd. The submission supports the zoning of the Smelter Zone as shown on the Planning Maps. There have been no other submissions or further submission points received questioning the extent of the Smelter Zone. The zoning reflects historical zoning of the land. The boundaries reflect the boundaries of the properties owned by New Zealand Aluminium Smelters Ltd and Comalco NZ Ltd. Whilst it is acknowledged that the Smelter has been located in the coastal environment and the development within the Zone has had impacts on the natural character of this environment, for historical and operational reasons the Smelter now has a functional need of this location. Changes to the boundaries of this Zone have not been sought and it is recommended that the identification of the Smelter Zone, as shown on Planning Maps 27, 29 and 31 (included in **Appendix 2** of this report) be retained as notified.

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 Section 32AA Further Evaluation

It is considered that a s32AA evaluation is not necessary as no changes are recommended in response to this submission point.

APPENDIX 1 – RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

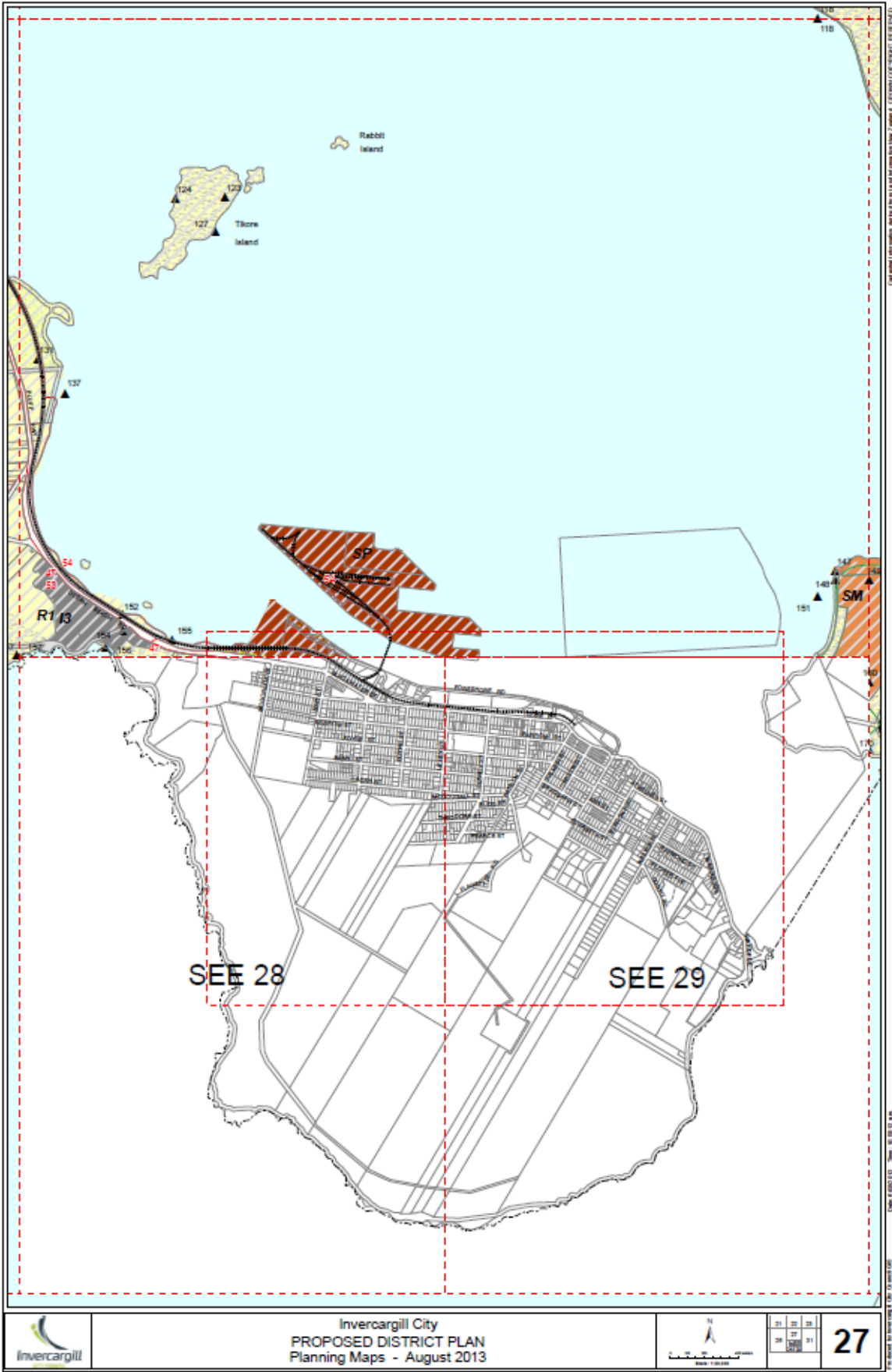
Submitter	Plan Provision/Submission	Recommendation
PLANNING MAPS		
71.69 NZAS Ltd	<p>Support Planning Maps 27, 29 and 31:</p> <p>The submitter supports the Smelter Zone as identified on the Maps.</p> <p>RELIEF SOUGHT: Retain the Smelter Zone.</p>	<p>Accept</p> <p>RECOMMENDATION:</p> <p>Retain the Smelter Zone as shown on Planning Maps 27, 29 and 31.</p>

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

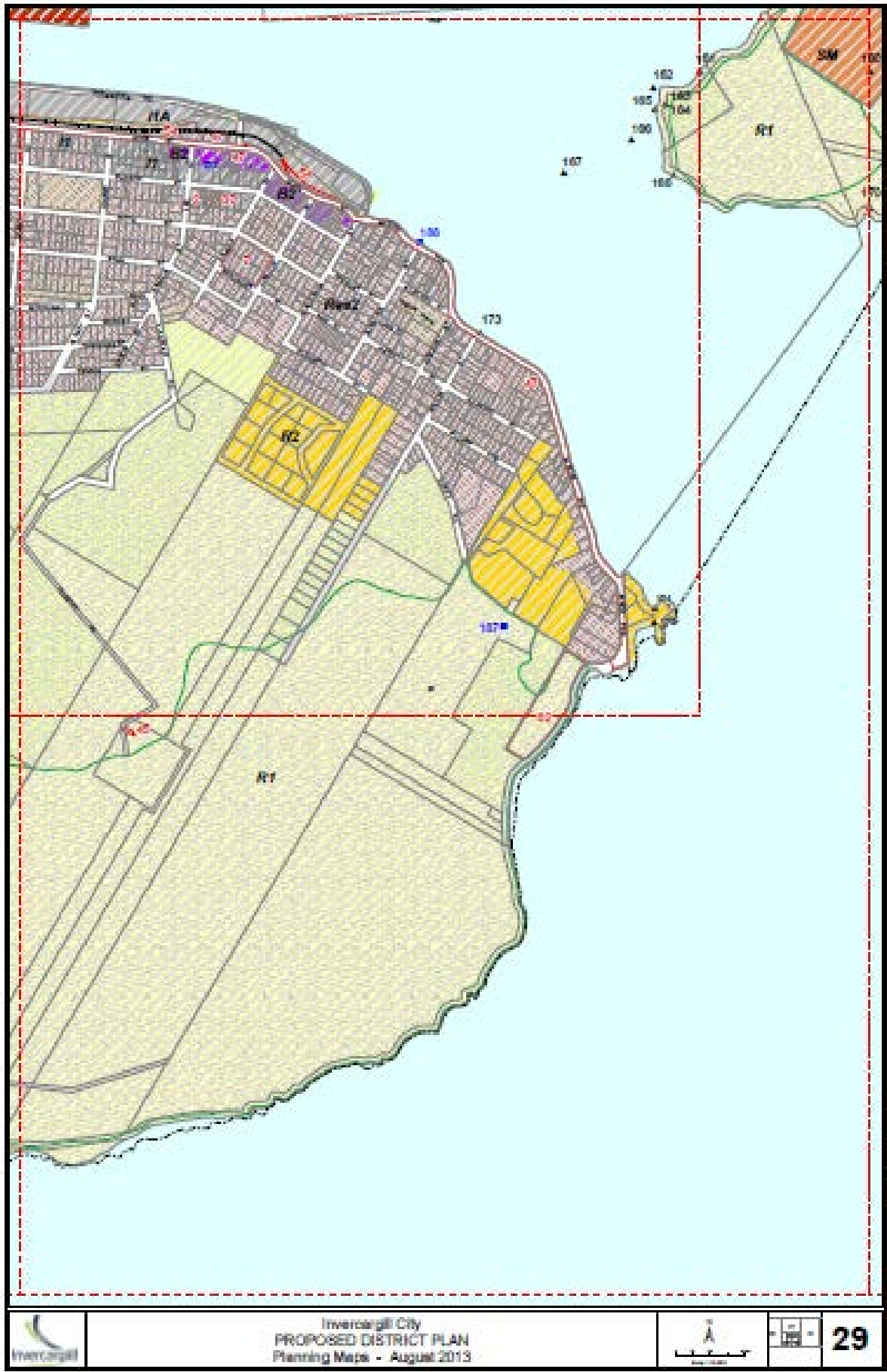
APPENDIX 2: PROPOSED INVERCARGILL CITY DISTRICT PLANNING MAPS

- Map 27
- Map 29
- Map 31

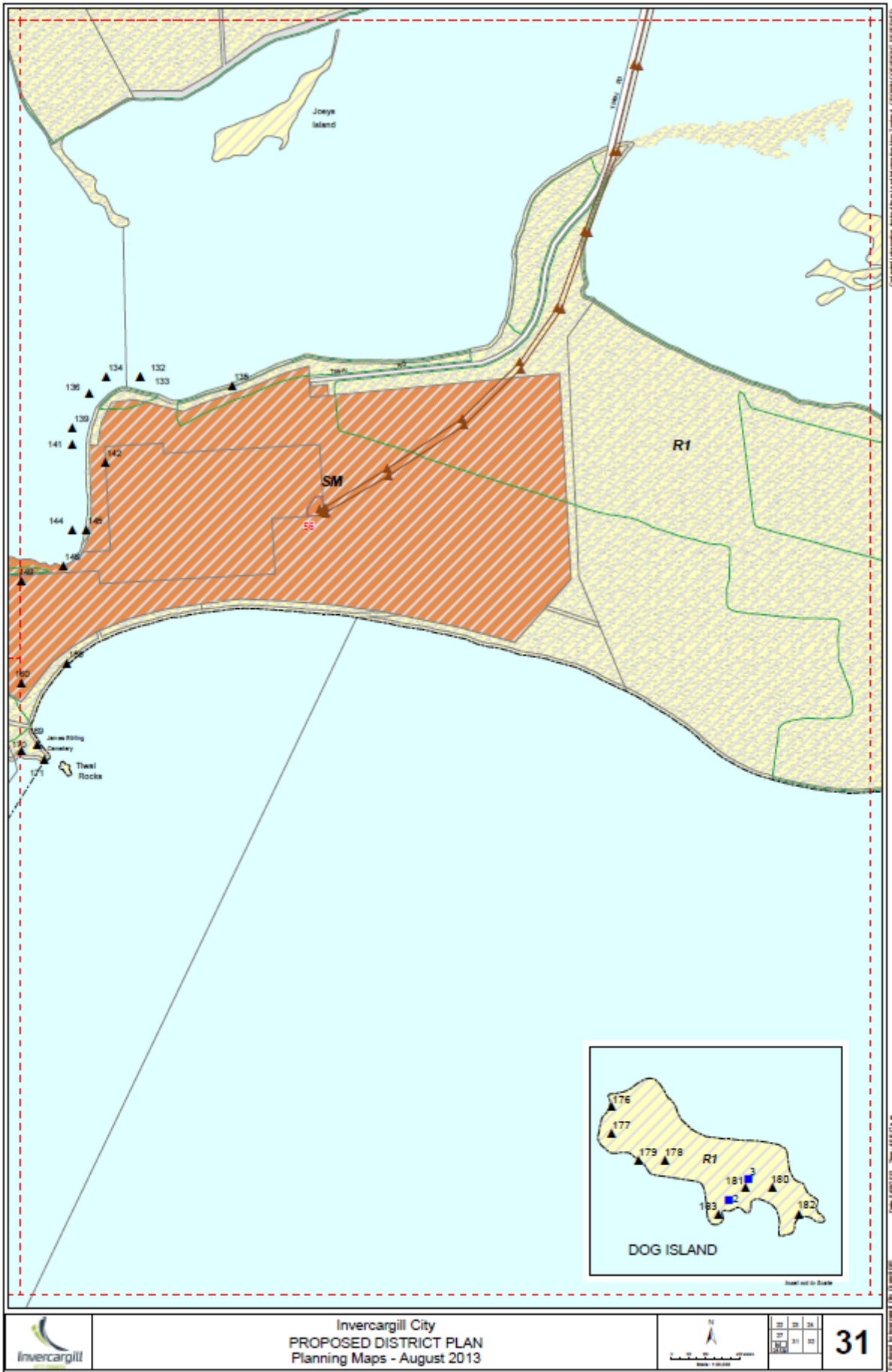
[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]



[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]



[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]



[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]