



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 27

Subdivision

**2 MARCH 2015, 9.00 am
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	5
3.1 Proposed issues, objectives and policies	5
3.2 Proposed rule	6
4. Statutory Context / Legislative Requirements	7
4.1 Resource Management Act 1991	7
4.1.1 Part 2 of the RMA	7
4.1.2 Functions of Territorial Authorities under the RMA	8
4.1.3 Consideration of alternatives, benefits, and costs	8
4.2 Specific RMA Provisions on Subdivision	8
4.3 Relevant Planning Policy Documents.....	9
4.3.1 New Zealand Coastal Policy Statement	9
4.3.2 National Policy Statements	9
4.3.3 National Environmental Standards.....	9
4.3.4 Regional Policy Statement.....	10
4.3.5 Proposed Regional Policy Statement.....	11
4.3.6 Regional Plans.....	13
4.3.7 Iwi Management Plans.....	13
4.3.8 Management Plans and Strategies Prepared under other Acts.....	14
4.4 Summary	14
5. Analysis of submissions	15
5.1 Matters of discretion.....	15
5.1.1 Life supporting capacity and productivity of the soil.....	15
5.1.2 Ability to enable permitted activities and the effects of any land use enabled by the subdivision.....	16
5.1.3 Recommendation.....	17
6. Discussion of Section 32 matters	18
6.1 Relevant Section 32AA matters	18
6.2 Section 32AA further evaluation.....	19
7. Concluding comments	20
Appendix 1 - Recommendations in response to submissions	21
Appendix 2 - Recommended Changes to Proposed District Plan	35

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

1. EXECUTIVE SUMMARY

This report addresses submission points related to the Subdivision Issues, Objectives, Policies and Rules set out in Sections 2.14 and 3.18 of the Proposed District Plan. Apart from the provisions relating to the Airport Operations and Airport Protections Zones, this report does not cover the specific minimum lot sizes for the different Zones. These will be addressed in Zone specific Section 42A reports.

There are 25 submission points and five further submissions discussed in this report. In general the submissions are in support, with a few suggesting minor amendments. Federated Farmers, however, through their submission on the Subdivision rule, have questioned the discretionary activity status for subdivisions and a number of the matters listed as among those that will be considered at the time of consent.

The Federated Farmers submission (88.90(b)) is discussed in some detail in Section 5 of this report. Through questioning the consideration of potential and permitted land uses at the time of subdivision, it is my interpretation that this submission questions the Proposed District Plan's approach to subdivision of recognising that subdivision results in expectations of land use and can have a transformative effect on the landscape into the future. I have recommended that the discretionary activity status, and the matters of consideration remain as notified.

I have recommended changes to an Objective and a Method of Implementation. This report also includes a suggested amendment to the lot size provisions in the Airport Protections Zone.

In this report:

- Part 2 considers several key procedural issues.
- Part 3 provides background information on the subdivision provisions.
- Part 4 summarises the various statutory provisions that apply to the consideration of the Proposed District Plan.
- Part 5 assesses the relevant issues raised by the submitters.
- Part 6 provides a discussion on the Section 32 matters.
- Part 7 sets out the overall conclusions.
- Appendix 1 sets out the recommendations on each of the submission points.
- Appendix 2 sets out the recommended changes to the text of the Proposed District Plan.

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 subdivision 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 Subdivision.

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 Subdivision 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:

“Council” means the Invercargill City Council

“FS” means further submitter in Appendix 2

“Hearing Committee” means the District Plan Hearing 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

2.5 The Hearing Process

A number of hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been divided up to ensure that submissions on similar issues have been 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 Subdivision provisions 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 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 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 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 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

This report relates to the provisions in the Proposed District Plan addressing subdivision. These include:

- Section 2.14, which contains the issues objectives, policies and methods of implementation for Subdivision;
- Section 3.18, which contains the District Wide rules for subdivision; and
- Section 4, containing the definitions.

Apart from the provisions relating to the Airport Operations and Airport Protections Zones, this report does not cover the specific minimum lot sizes for the different Zones. These will be addressed in Zone specific Section 42A reports.

The Proposed District Plan includes a number of changes to the approach to Subdivision from what was in the Operative District Plan. The approach proposed seeks to address the understanding that subdivision leads to an expectation of land use, and that subdivision patterns have a long term influence on the form and function of the district.

The main changes include a strengthening of Objectives and Policies, a change to discretionary activity status for most subdivisions, and introduction of minimum lot sizes.

3.1 Proposed Issues, Objectives and Policies

Section 2.14 of the Proposed District Plan contains the District Wide Issues, Objectives, Policies and Methods of Implementation relating to subdivision.

Eight significant resource management issues are identified by the Proposed District Plan. These are:

1. Subdivision determines the subsequent pattern of land use and can lead to expectations that may not be sustainable.
2. Subdivision and subsequent development of subdivided allotments can reduce the overall productivity of rural land.
3. Subdivision and development can result in demands for the extension of infrastructure which are unsustainable long term.
4. Subdivision can lead to poor urban design outcomes.
5. Appropriately located subdivision can provide opportunities for community growth and can improve character, amenity and well-being.
6. Subdivision and subsequent development can affect heritage, including archaeological sites and sites of cultural significance to iwi.
7. Subdivision and development of subdivided allotments can result in increasing amenity conflicts between new and established land uses.
8. Subdivision and development can have adverse effects on landscapes and natural features and can result in the loss and degradation of biodiversity.

There are eleven Objectives and eleven Policies in the Subdivision section of the Proposed District Plan (as opposed to just two Objectives and four Policies in the Operative District Plan). These Objectives and Policies address a range of issues from integration with communities, infrastructure and public space, to urban design considerations, natural hazards, landscapes, heritage, iwi values and contaminated land.

Five methods of implementation have been developed which will guide how the objectives and policies will be implemented. These methods include both regulatory and non-regulatory approaches.

3.2 Proposed Rule

Under the Operative District Plan most subdivisions were controlled. In saying that, there were circumstances where subdivisions were considered discretionary activities. This included subdivisions of sites located along Limited Access Roads, in hazard prone areas, within the electricity transmission corridors, on sites containing areas of biodiversity, within the Airport Protection Sub-Area, or within the Industrial A Sub-Area. Subdivisions within or adjacent to the North Road Sewerage Reticulation Area were non-complying.

The Operative District Plan did not include any minimum lot sizes. The matters of control also left decision makers quite limited in terms of what matters could be considered at the time of subdivision and what conditions they could impose.

The principles of good urban design have often been overlooked by developers in a bid to create more lots which benefitted the developer, but not necessarily the community or those living or working in the area. Not having minimum lot sizes has resulted in subdivisions that have made it difficult to provide for permitted use of the newly created allotments. For example, some subdivisions in residential areas have resulted in lots that could fit only the smallest structures. Land use expectations have not always taken the allotment size and layout into consideration and these smaller allotments often result in the need for resource consent to enable the “desired” development, with some resulting in living environments of minimal standard.

Under the Proposed District Plan most subdivisions are discretionary. The matters that should be addressed in applications listed in the Proposed District Plan are extensive and cover a range of issues.

Only subdivision to provide for network utilities, boundary adjustments or amendments to cross-lease subdivisions are considered controlled activities.

Subdivisions within the National Grid Corridor are subject to additional considerations. Subdivisions within areas identified as being subject to Level 2, 2A or 3 inundation are non-complying, as are subdivisions that do not meet the minimum lot sizes in the different Zones.

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

Under Section 74 of the RMA, in relation to changes to the District Plan, Council must consider Part 2 of the RMA (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 its purpose and principles of the Act.

The purpose of the RMA is set out in Section 5. I confirm that the provisions for subdivision fall within the purpose of the Act. In particular, policies and rules are designed 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. The protection of the coastal environment, wetlands, lakes and rivers and their margins; outstanding natural features and landscapes; significant indigenous vegetation and significant habitats of indigenous fauna; and historic heritage from inappropriate subdivision are specifically referred to in Section 6. The Proposed Objectives and Policies specifically refer to these matters. By acknowledging these environments and values within the matters to be taken into account in the rules, the Proposed District Plan further acknowledges these matters of importance.

Section 7 of the RMA sets out “other matters” for which particular regard shall be had. Whilst the consideration of these matters should be included in all subdivisions, it is considered that the most relevant matters are:

- (c) *The maintenance and enhancement of amenity values*
- (f) *Maintenance and enhancement of the quality of the environment*

It is considered that the provisions relating to subdivision 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. One of the matters raised in the

development of the Proposed District Plan was the potential for subdivision proposals to include greater consideration of Iwi values, through respecting the features of the land to considering appropriate place names or sculptures. These matters have been brought through to the Proposed District Plan through Objectives and Policies. The Proposed District Plan also includes the consideration of the extent to which the subdivision addresses the relationship between Maori and their ancestral lands, sites, wāhi tapu and other taonga as matters to be taken into consideration.

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 ...”

Section 31(2) of the RMA states that the methods used to carry out any of the functions listed in Section 31(1) may include the control of subdivision. The subdivision provisions in the Proposed District Plan include policies, and methods intended to manage the actual or potential effects of subdivision activities on the environment.

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 Proposed District Plan, the Council is required to carry out a further evaluation through the hearing, consideration and deliberation process before making its decision on the Plan Change. Section 6 of this report includes my evaluation of the Proposed District Plan Provisions in accordance with Section 32AA.

An analysis in accordance with Section 32AA is included later in this report.

4.2 Specific RMA Provisions on Subdivision

The RMA includes a number of sections that relate to subdivision. A subdivision consent is one of the five types of resource consent specified in Section 87 of the RMA and should largely be treated in the same way as any other resource consent application. A subdivision consent is required in terms of Section 11 of the RMA unless the subdivision is in accordance with a National Environmental Standard, a district plan (operative or proposed) or a resource consent. Unlike the RMA position in relation to land uses, the presumption in Section 11 is against subdivisions.

There are provisions in the RMA which are applicable only to subdivision consent applications. For example, the imposition of conditions for subdivision consents is governed by Sections 108 and 220 of the RMA. Part 10 of the RMA sets out specific subdivision and reclamation provisions.

4.3. 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.

4.3.1 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.

The NZ Coastal Policy Statement (NZCPS) relates to subdivision activities, as well as use and development, within the coastal environment. Whilst the NZCPS is addressed in more detail in the Coastal Environment section of the Proposed District Plan, it is relevant to the Subdivision provisions in the Proposed District Plan.

In general terms, in addressing issues relating to the coastal environment the NZCPS allows for some subdivision, but seeks consideration of effects of that subdivision and subsequent development on the natural character and other values of the coastal environment.

One specific area in the NZCPS that is addressed in the Proposed District Plan subdivision provisions relates to access to the coast. Including consideration of the extent to which the proposed subdivision retains and enhances public access to and along the coast gives effect to the NZCPS.

4.3.2 National Policy Statements

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements.

Policies 10 and 11 of the National Policy Statement on Electricity Transmission seek to ensure that District Plans include consideration of reverse sensitivity effects on the electricity transmission network, including the requirement for buffer corridors. The provisions in the Proposed District Plan that relate to subdivision within the transmission corridor were addressed in the Section 42A Report 19 Infrastructure. However, it is worth noting here that there are provisions within the Proposed District Plan that seek to control subdivision within the National Grid Corridor in order to give effect to the NPS.

4.3.3 National Environmental Standards

Section 44A of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard.

4.3.3.1 *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health came into effect on 1 January 2012. The NES provides a nationally consistent set of planning controls and soil contaminant standards that all territorial authorities are required to give effect to and enforce.

The purpose of the NES is to ensure that land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development

activities take place and, if necessary, that land is remediated or contained to make it safe for the intended use. The purpose of the NES is to protect human health and does not apply to assessing or managing the actual or potential adverse effects of contaminants on other receptors including ecological, water quality or amenity values.

Subdivision of potentially contaminated land triggers the NES. The provisions of the Proposed District Plan acknowledge the issues raised in the NES through specific Objectives and Policies and an express mention of contamination issues as a matter for consideration in the subdivision rule. The full NES document has been attached as an appendix.

4.3.4 Regional Policy Statement

Under Section 75 of the RMA, a District Plan must give effect to an operative Regional Policy Statement.

There are numerous policies and objectives from the Southland Regional Policy Statement (1997) that are specifically relevant to the Subdivision provisions. Some of the most relevant provisions are set out below:

5.8 SOILS

Objective 8.1 To promote the sustainable management of all soils.

Policy 8.1 Maintain and enhance Southland's soil resource by avoiding, remedying or mitigating the adverse effects of activities.

Policy 8.2 Provide for the sustainable management of the most versatile soils of the Region.

5.9 NATURAL FEATURES AND LANDSCAPES

Objective 9.1 To protect outstanding natural features and landscapes of the Region.

Policy 9.1 Identify and encourage the protection of outstanding natural features and landscapes within Southland.

5.10 BUILT ENVIRONMENT

Objective 10.1 To achieve the sustainable management of the built environment in such a way that the needs of future generations are met.

Objective 10.2 To maintain and enhance the environmental quality of the Region's built environment.

Objective 10.5 To minimise the adverse effects of the built environment on natural and physical resources.

Policy 10.1 Encourage development and use of the built environment that provides for the efficient use of existing facilities and infrastructure while simultaneously avoiding the development of unnecessary additional infrastructure.

Policy 10.3 Encourage the use of corridors for network utilities where practicable, where this will result in mitigation of environmental effects.

Policy 10.7 Recognise that changes to one component of the built environment can have adverse effects on other components of the built environment.

The subdivision provisions give effect to these policies and objectives by acknowledging the potential impacts of subdivision on the wider environment and including specific reference to matters such as soils, integrating subdivision with infrastructure and the built environment and requiring consideration of the natural features, landscapes and other special values associated to certain areas within the Invercargill city district.

4.3.5 Proposed Regional Policy Statement

In accordance with Section 74, regard needs to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012 and Hearings on submissions are currently being undertaken. Issues related to subdivision are covered in a number of the chapters of the Proposed Regional Policy Statement.

The Rural Land / Soils chapter recognises that subdivision in rural areas of Southland can adversely affect soil, water, amenity, iwi cultural values, landscapes, the transportation network, and may give rise to reverse sensitivity issues. The Objectives seek to not only maintain and enhance the life supporting capacity of the soils, but also, among other things, achieve the sustainable land use in rural areas in respect of subdivision use and development

Policy RURAL.2 – Land use change and land development activities

Manage subdivision, land use change and land development activities in rural areas of Southland, in a way that maintains or enhances existing amenity values and rural character.

Policy RURAL.4 – Loss of high value soils from productive use

Avoid loss of high value soils from productive use, through inappropriate subdivision, use and development.

The Rural Land / Soils chapter also requires territorial authorities to:

Method RURAL.7 - Territorial Authority Management

Establish and maintain provisions that:

- a) enable activities that sustainably use and develop the rural land resource while avoiding or mitigating adverse environmental effects;*
- b) control the location, density, design and standard of urban expansion, residential and rural residential development on rural land, for example by:
 - i) developing subdivision and design standards to guide high quality land development and guide resource management decisions that avoid or mitigate adverse effects on the community, landscapes and natural resources;*
 - ii) promoting best practice sustainable approaches to subdivision and development to landowners and developers;**

- iii) *requiring Concept Development Plans or Structure Plans as necessary for urban expansion or rural-residential subdivision, land use or development;*
- c) *avoid or mitigate effects from earthworks, soil and vegetation disturbance;*
- d) *avoid or mitigate the effects of rural land use and development, and mineral extraction activities on:*
 - i) *high class soils;*
 - ii) *landscape and amenity values;*
 - iii) *indigenous vegetation and biodiversity;*
 - iv) *residential activities, community activities and rural productive land use;*
 - v) *tangata whenua values;*
 - vi) *transport networks;*
- e) *avoid or mitigate the effects of land-based mineral extraction activities.*
- f) *require appropriate design and operation of onsite wastewater disposal systems in rural areas;*
- g) *maintain or enhance existing amenity values and rural character.*

The Urban chapter of the Proposed Regional Policy Statement includes one Objective and seven Policies, all of which are relevant to Subdivision. In general these are promoting urban development that occurs in an integrated and sustainable and well-planned manner. The Proposed Regional Policy Statement requires territorial authorities to:

Method URB.2 - District Plans

1. *Establish and maintain provisions in district plans to provide for and manage urban growth while protecting:*
 - a) *the natural and physical environment;*
 - b) *regionally and nationally significant infrastructure;*
 - c) *outstanding natural features and landscapes;*
 - d) *the quantity and quality of water in groundwater aquifers and surface water bodies;*
 - e) *indigenous biodiversity;*
 - f) *the character, amenity and safe and efficient functioning of rural areas and settlements;*
 - g) *historic heritage;*
 - h) *people and property from unacceptable risk from natural hazards and the potential adverse effects associated with climate change;*
 - i) *the relationship between tangata whenua and their ancestral lands, water, sites, wāhi tapu and other taonga.*

2. *As appropriate, establish and maintain provisions in district plans which:*
 - a) *identify and map areas for urban growth and development;*
 - b) *encourage development and/or redevelopment of existing urban areas ahead of greenfield development;*
 - c) *provide for the integration of land-use and infrastructure;*
 - d) *avoids unplanned and unmanaged development;*
 - e) *encourages high quality urban design;*
 - f) *encourages a range of urban densities which are appropriate to their locations in order to maintain amenity whilst supporting pedestrian, cycle and public transport;*
 - g) *provide for higher housing densities in locations where it is supportive of pedestrian, cycle and public transport and the viability and vibrancy of urban centres;*
 - h) *encourage the intensification and, where relevant, the regeneration of existing urban areas;*

- i) *provide a mix of residential (e.g. density and cost), employment and recreational opportunities;*
- j) *ensure that urban development cannot occur without the appropriate infrastructure capacity to support it;*
- k) *encourage urban growth, within urban areas of Southland that have existing infrastructure capacity.*

There are also provisions in other chapters of the Proposed Regional Policy Statement that are relevant to Subdivision issues.

Regard has been had to the provisions requirements in the Proposed Regional Policy Statement, as evidenced through zoning, the introduction of lot sizes and the introduction of a broad range of matters to be considered at the time of subdivision. I am satisfied that the Subdivision provisions meet the requirements under Section 74 of the RMA.

4.3.6 Regional Plans

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan. It is my opinion that the subdivision provisions as recommended in this report are not inconsistent with any Regional Plan.

The Regional Coastal Plan focusses on the sustainable management of the coastal marine areas, with the protection of the coastal environment from inappropriate subdivision, use and development as the key focus. It adopts the policies from the NZCPs in so far as they relate to the CMA.

Policy 5.7.3 - Identification of heritage values *Ascertain heritage values wherever practicable when considering the use, development and subdivision of the coastal marine area.*

Rule 12.2.2 - Construction of coastal protection works *The construction or undertaking of any works to protect subdivision, use or development, is a discretionary activity.*

Whilst there is no reference to the coast, apart from public access, within the subdivision provisions, the Coastal Environment has specific provisions which any application for subdivision within the Coastal Environment will be required to consider. It is my opinion that the approach to subdivision within the Proposed District Plan is not inconsistent with the Regional Coastal Plan.

Including the consideration of the potential effects of subdivision on water quality and quantity, particularly in reference to wastewater and stormwater implications, will ensure that any issues raised in the Southland Regional Water Plan, Regional Effluent Land Application Plan, are considered through the consenting process. It is my opinion that the approach to subdivision within the Proposed District Plan is not inconsistent with these regional plans.

4.3.7 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 Taurira*.

Within the Southland Plains section of the Iwi Management Plan is a section headed “Subdivision and Development”. The document states:

For Ngāi Tahu ki Murihiku, the potential effects of subdivision on cultural values have little to do with the “lines on the map”, and more to do with how to manage the effects of associated land use (page 143).

There are 18 policies in this section of the Iwi Management Plan. The focus of the policies on subdivision and development is on encouraging developers to work to achieve positive community outcomes, conservation outcomes and cultural outcomes alongside economic gain.

It is my opinion that the concerns raised in the Iwi Management Plan have been given regard to. The general approach to Subdivision in the Proposed District Plan acknowledges that subdivision has a transformative effect on land use patterns and leads to an expectation of use that needs to be considered in the early stages. The provisions, including specific matters of consideration, address concerns raised in the Iwi Management Plan policies. Such concerns include consideration of future uses of the land, including associated building, stormwater, sewage and water supply.

4.3.8 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. The spatial plan sets out in mapped form the long term (30 year) strategic direction for the city. This plan has helped guide the delineation of proposed zones, and the introduction of minimum lot sizes. The spatial plan also recognises that integration with existing services, and the preference for infill development over urban sprawl in order to ensure efficient use of existing infrastructure, are key considerations in determining the future land use patterns for the district.

There are a number of Council activity plans developed as part of the Annual Plan process that are of relevance to the subdivision topic. The Council’s infrastructure for example is overseen by the Works and Services Directorate. Regard has been had to the Council’s policy direction, particularly in regards to potential extensions of services resulting from subdivision and to Bylaw 2031/1 Code of Practice for Land Development and Subdivision Infrastructure.

4.4 Summary

It is considered that the purpose and principles of the RMA are met by the Subdivision provisions set out in the Proposed District Plan. The proposed provisions fall within the functions of local authorities. The requirements of Section 32 of the RMA have been met through the evaluations carried out prior to notification and in this report. The various documents required to be considered have been appropriately addressed in the preparation of provisions relating to Subdivision.

5. ANALYSIS OF SUBMISSIONS

Twenty-six submission points and five further submission points were received on the subdivision provisions of the Proposed District Plan. Some of these submissions have been addressed in part in other Section 42A Reports. These submissions are summarised in table form, along with recommended responses and notes advising where issues have been addressed elsewhere, in **Appendix 1** of this report.

In general, the submissions covered in this report in relation to the Subdivision Issues, Objectives, and Policies are supportive of the approach taken, subject to a few minor changes.

There are a couple of submitters opposing certain Subdivision rules. Discussion on these submission points is set out in **Appendix 1**. One submission point questioning the matters of discretion is discussed in greater detail below.

5.1 Matters of discretion

Federated Farmers (88.90(b)) is concerned that the proposed discretionary status for subdivision and the matters of consideration listed in Rule 3.18.4 do not provide confidence that a “well managed or reasonable subdivision proposal will clear the multiple hurdles this rule sets out”. I agree that the discretionary activity status does not provide certainty for people wanting to subdivide their land. Not all subdivisions may be approved. However, it is my opinion that the matters of consideration will aid the Plan User to determine what matters should be considered when determining whether a subdivision is “well managed” or “reasonable”.

The provisions provide transparency to the Plan User as to what type of matters will be considered through the subdivision process, and these may include a range of issues raised in the Objectives and Policies throughout the District Wide and zone specific sections of the Plan.

The submitter asserts that the provisions should not duplicate regional policies or plans. It is my opinion, however, that the matters of consideration give effect to the various regional policies and plans, using an integrated management approach as opposed to a duplication of process.

5.1.1 Life supporting capacity and productivity of the soil

The productive capacity of the district’s soils was a particular matter of consideration that Federated Farmers objects to. The Proposed Regional Policy Statement includes policies seeking to avoid loss of high value soils from productive use, through inappropriate subdivision. The Invercargill city district contains high value soils (as discussed in the Section 42A Report No. 26) and considering the life supporting capacity of this soil addresses this Proposed RPS provision.

Federated Farmers believe that if land is productive and the landowner is fully informed as to the value of the soil, then the landowner will factor that in to land management decisions. They believe that the economic value of the land with productive soils and stewardship of land held for generations is often valued above its economic cost. Whilst this is acknowledged, and such landowners are commended, this is not always the case. There is the risk that our high value soils will be subdivided for non-productive use with factors such as amenity and proximity to the urban boundaries taking priority for developers and potential purchasers.

Decisions on zoning throughout the District have in part been determined by factors such as the quality of soils. Although the lot sizes for the Rural Zones will be discussed in a later Hearing, it should be noted that minimum lot sizes have also been informed by potential effects on the productive and life supporting capacity of the soil. Consideration of the effects on soils will definitely be a matter considered for non-complying subdivisions and land uses within the rural areas of the district. Subdivision that leads to an increase in the need for on-site wastewater management systems also requires consideration of the impacts of the subdivision on the soil.

I believe that this matter could be removed from the list of matters of discretion. In doing so, due to the discretionary activity status, decision makers can still use their discretion to consider this if necessary. The approach in this rule was to include a detailed list of the types of matters that may be considered at the time of subdivision to aid Plan Users. The matters listed will not all be relevant to all subdivisions.

5.1.2 Ability to enable permitted activities and the effects of any land use enabled by the subdivision

Federated Farmers' opposition to 3.18.4(C) and (Q) goes to the root of the approach to subdivision, spelt out in Section 2.14 of the Proposed District Plan:

"The District Plan recognises a fundamental relationship between subdivision and subsequent land use and a need to ensure that the subdivision of land creates allotments suitable for their intended use. Although subdivisions are not land use activities, the use of land and the subdivision of land are linked in terms of potential effects and cannot be easily separated.

"Subdivision determines patterns of land use. Therefore, Subdivision has a transformative influence on land use and the effects of land use on the environment. For this reason the District Plan controls subdivision in order to influence land use decisions so that adverse effects can be avoided, remedied or mitigated."

(Section 2.14, page 2-50, Proposed Invercargill City District Plan)

Federated Farmers considers it is not the subdivider's responsibility to consider the extent to which the proposed subdivision enables uses permitted in the zone, and to consider the potential effects of land uses enabled by the subdivision is not the subdivider's responsibility. Federated Farmers submits that this is too great a hurdle. However, I believe these matters should be considered as part of the subdivision process. Some specific examples where this is particularly relevant will include subdivisions creating allotments in a residential area too small for residential activities, or that results in a an allotment that is completely covered by areas of biodiversity or areas subject to Level 3 riverine inundation. The applicants and decisions maker may want to consider whether the dimensions of a newly created allotment can practically enable a permitted use, or if there is the ability to provide a safe accessway to the new properties, particularly if the site fronts a limited access road.

It should also be noted that the relationship between the residential density rules in the different zones and the subdivision rule is such that a discretionary subdivision could potentially be sought to create lots of a size that would mean any residential development on that lot is deemed a discretionary activity. For example, subdivision in the Residential Zone is a discretionary activity down to 350m². However, residential activities on sites between 350m² and 400m² are discretionary. Consideration of the potential for newly created lots to accommodate permitted

activities should be considered at the time of subdivision to address the resulting expectation of land use.

The approach to subdivision in the Proposed District Plan is based on the understanding that subdivision leads to an expectation of use. Addressing potential land use expectations at the time of subdivision is consistent with this approach and will ensure that subdivisions create allotments that are suited for the specific Zone and that are able to be used into the future.

5.1.3 Recommendation

It is my opinion that 3.18.4(C), (D) and (Q) should 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 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 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

Listed below are the matters considered relevant for further evaluation under Section 32AA of the RMA.

- Amendment to the definition of “infrastructure” to include “educational activities”.
- Amendment of Objective 1 strengthening its focus on the integration of subdivision and development with the existing community, infrastructure and public spaces.
- Amendment of Method 5.
- Amending Rule 3.18.6 to include a minimum lot size for subdivision within the Airport Protection Zone.

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

6.2 Section 32AA Further Evaluation

There is a specific Subdivision section in the original Section 32 report. The recommended amendments are only minor changes and do not raise any significant matters outside of the original evaluation report.

The environmental, economic, social or cultural effects (including effects on employment and economic growth) anticipated to arise as a consequence of the changes will be minor.

The recommended amendment to the Objective will result in an objective that is still relevant in terms of the RMA but with a greater focus on the end result. The recommended Objective is consistent with the other Objectives throughout the Proposed District Plan in terms of ensuring that subdivision and development is integrated with the wider environment, the community and existing infrastructure.

The recommended amendments to Rule 3.18.6, as set out in **Appendix 2**, are considered to be the most appropriate way to achieve the objectives of the Proposed District Plan relating to Subdivision, Transportation, and Infrastructure and the Airport Protections Zone. Whilst the provisions will result in making it more difficult to subdivide private property within the Airport Protection Zone, the benefits in relation to avoiding, remedying or mitigating reverse sensitivity effects and in enabling the airport to continue to function are greater.

7. CONCLUDING COMMENTS

I have recommended in this report that the provisions as they relate to subdivision should remain largely as notified. It is my opinion that the Subdivision provisions and suggested changes achieve the purpose of the Objectives of the Proposed District Plan relating to Subdivision and meet the requirements of the RMA.

Twenty-six submission points were received on the Subdivision provisions of the Proposed District Plan with five further submissions points. In general the submissions covered in this report on the Subdivision Issues, Objectives and Policies are supportive of the approach taken, subject to minor changes. There are a couple that are in opposition to provisions and these have been addressed either in Section 5 of this report and/or in Appendix 1.

Amendments recommended in this report include a tightening of the wording of one Objective, a rewording of a Method of Implementation, a change to the definition of "Infrastructure" and the introduction of a minimum lot size for subdivision in the Airport Protection Zone. These changes do not alter the overall approach to subdivision but it is considered they will aid in making the provisions more user-friendly and transparent, and in relation to the Airport, ensuring that reverse sensitivity effects are a consideration at the time of subdivision.

APPENDIX 1: RECOMMENDATIONS IN RESPONSE TO SUBMISSIONS

Submitter	Submission	Recommendation
General		
56.15 Jenny Campbell	The submitter supports these sections, especially minimum lot sizes. RELIEF SOUGHT: Not stated.	Accept in part The submitter's support is noted, however amendments to the provisions are recommended in response to other submissions. It is considered that these amendments will not significantly change the overall approach to subdivision in the Proposed District Plan.
64.32 Department of Conservation	Support. The submitter considers these provisions to be consistent with Part 2 of the RMA, and it recognises the high values of some areas of the Invercargill city district. The submitter also notes that the provisions are consistent with the NZCPS2010 in retaining and enhancing public access to and along the coast and placing restrictions on subdivision in areas identified as being hazard prone. RELIEF SOUGHT: Retain objectives, policies, and rules.	Accept in part Recommended amendments in relation to submissions on the proposed subdivision provisions will still be consistent with the NZ Coastal Policy Statement 2010 and the provisions will continue to require assessment of effects on the various values of the different areas of the Invercargill city district through the subdivision consent process. RECOMMENDATION: Retain the overall subdivision objectives, policies and rules subject to minor amendments recommended in response to other submissions.
117.17 Southern District Health Board	The submitter believes that creating healthy home environments is an important aspect of public health and believes appropriate insulation within housing design mitigates against potential noise nuisances while maintaining healthy room temperatures. RELIEF SOUGHT: Not stated. FS34.10 ICC - Environmental Health and Compliance Services <i>Support submission 117.17</i> The further submitter supports the inclusions of provisions including a clause for creating a healthy home environment, which may include appropriate insulation to mitigate potential noise nuisances, especially in a rural/industrial residential development.	Noted This comment was made under the heading of subdivision, although does not directly relate to the subdivision provisions. The issues of healthy homes is addressed through design standards within the Proposed District Plan and through the Energy Issues, Objectives and Policies. The issues surrounding good urban design, promoted in the subdivision provisions, also relate to healthy environments.

2.14 SUBDIVISION – ISSUES, OBJECTIVES AND POLICIES		
General		
105.4 ICC –Environmental Health and Compliance Services	The submitter supports the issues, objectives, policies and methods of implementation.	Accept Amendments to subdivision provisions in response to other submissions will not affect their overall intention.
Introduction		
18.78 Environment Southland	<p>The submitter believes the Introduction should recognise the existence of the “Big Picture” Spatial Plan in determining the way Invercargill “can realistically and sensibly be encouraged to develop and, in places, redevelop.”</p> <p>The submitter states that it is important that subdivision is guided by the strategic and visionary “Big Picture” and does not create an alternative ad hoc picture. Indeed the Big Picture document itself recognises the District Plan Review as a key project that assists with achieving the Council’s vision. As such the District Plan needs to recognise that it is part of a wider Council RMA process. Development of the city must be from the whole to the part, the “whole” being the “Big Picture” with one of the “parts” being subdivision. Subdivision must reflect the over arching strategic direction set out in the Big Picture maps and District Plan Zone boundaries.</p> <p>The submitter points out that the proposed Plan only contains three references to the “Big Picture” document, one in the Introductory Section 1.4 (which the submitter considers will be seldom consulted once the District Plan is in effect) and the others being in relation to zone boundaries. Given that subdivision is often involved in facilitating development that would otherwise not conform with the District Plan, the submitter believes that it is important the Big Picture is considered before allowing for such non conforming development, otherwise there is a distinct danger of the “Big Picture” being undermined.</p>	Reject <p>Whilst there is no specific mention of the “The Big Picture”, it is considered that the non-statutory spatial plan has been had regard to as required under the RMA and has been recognised through the drafting of the objectives and policies.</p> <p>The approach to zoning has been guided by the Big Picture, however not all of the spatial plan was brought through to the District Plan. The spatial plan was drafted with a 30 year horizon, and in developing the Proposed District Plan it was considered that some of the development anticipated in drafting the spatial plan may not eventuate in the 10 year life of the District Plan.</p> <p>The principles behind the development of the spatial plan have, however, been brought through to the Proposed District Plan, such as the importance of integrating subdivision with infrastructure and seeking to ensure subdivision is guided by the objectives for the different zones.</p> <p>It is not considered that the spatial plan is being undermined. In developing the District Plan the Council is obligated to have regard to management plans and strategies prepared under other Acts. As evidenced in the original Section 32 report, and subsequent Section 42A reports tabled to date on the Proposed District Plan, regard has been had to the spatial plan. As pointed out by the submitter, Section One Introduction to the Proposed District Plan states that the spatial plan guided the development of the Proposed District Plan.</p>

	<p>RELIEF SOUGHT:</p> <p>Inclusion of Objectives and Policies that recognise and give effect to “Invercargill: The Big Picture”, the non-statutory spatial plan prepared by the ICC in January 2012 following public consultation.</p>	<p>RECOMMENDATION:</p> <p>Retain Objectives and Policies as notified.</p>
<p>79.13 KiwiRail Holdings Limited</p>	<p>Support Introduction</p> <p>The submitter considers that it is important to protect significant transportation infrastructure</p> <p>RELIEF SOUGHT:</p> <p>Retain paragraph 3 as proposed</p>	<p>Accept</p> <p>RECOMMENDATION:</p> <p>Retain paragraph 3 of the Introduction to 2.14 as notified</p>
<p>2.14.1 Issues</p>		
<p>87.34 (b) Transpower NZ Ltd</p> <p>(Covered in part in Section 42A report Report No.19 Infrastructure)</p>	<p>Support Issues in part.</p> <p>The submitter is concerned that there is no mention of the issue of effects <u>on</u> existing infrastructure, given that subdivision and development can be a major constraint on existing, and the provision of new infrastructure.</p> <p>RELIEF SOUGHT:</p> <p>(i) That points 1, 4 and 7 are retained as notified.</p> <p>(Note: The submitters concerns about the effects on existing infrastructure and bullet point ii. of the relief sought was covered in Section 42A report No.19 Infrastructure.)</p> <p>FS28.19 NZ Transport Agency - (Covered in Section 42A report Report No.19 Infrastructure) Support submission 87.34</p> <p>The further submitter agrees that subdivision and development can be a major constraint on existing infrastructure and the provision of new infrastructure.</p> <p>RELIEF SOUGHT:</p> <p>Allow suggested addition to point 2.14.1.</p>	<p>Accept</p> <p>RECOMMENDATION:</p> <p>That Issues 1, 4 and 7 are retained as notified.</p> <p><i>See Section 42A Report No. 19 Infrastructure which recommended that an additional Issue statement be included – accepting submission 87.34(a) and FS28.19.</i></p>

<p>53.18 NZ Transport Agency</p>	<p>Support Issue 1.</p> <p>RELIEF SOUGHT: Retain Issue 1 as proposed.</p>	<p>Accept</p> <p>RECOMMENDATION:</p> <p>That Issue 1 be retained as notified.</p>
<p>2.14.2 Objectives</p>		
<p>77.39 Te Runaka o Waihopai and Te Runaka o Awarua</p>	<p>Support Objectives 1-11, particularly strong support of Objective 4.</p> <p>RELIEF SOUGHT: Retain.</p>	<p>Accept</p> <p>It should be noted that a number of submissions on 2.14.2 Objectives have been covered in other Section 42A Reports, being Report No. 19 Infrastructure and Report No. 20 Transportation. Recommendations in these reports were to retain Objectives 5, 7 and 9 as notified.</p> <p>Minor amendments to the other 2.14.2 Objectives recommended in response to submissions in the table below will not change the overall intention of the provisions.</p>
<p>78.6 Ministry of Education</p>	<p>Support Objectives 1 and 5 in part.</p> <p>The submitter considers that these objectives provide an opportunity for future provision of schools or existing education facilities to be considered by developers.</p> <p>RELIEF SOUGHT: Amend by including reference to “education activities”.</p>	<p>Accept in part</p> <p>A specific objective referring to “educational activities” is not considered necessary. However, if “educational activities” were included within the definition of “infrastructure” consideration of these activities could be included through the subdivision process.</p> <p>RECOMMENDATION:</p> <p>Amend definition of “infrastructure” as recommended in Section 42A Report 19 Infrastructure to include reference to educational activities as follows:</p> <p>“Infrastructure: means the systems, services, structures and networks necessary for operating and supplying essential utilities and services to the community including but not limited to:</p> <p>(A) the supply and distribution of electricity</p> <p>(B) water supply</p>

		<p>(C) stormwater (D) street lighting and lighting of public land (E) the receiving and sending of communications, including telecommunications and radiocommunications (F) navigation aids (G) data recording and monitoring systems, including but not restricted to meteorological facilities (H) sewage collection, treatment and disposal (I) the distribution or transmission of natural or manufactured gas, petroleum, biofuel or geothermal energy (J) the transportation network, including the roads, cycleways, walkways, airport, seaport and railway (K) defence facilities (L) Flood alleviation works managed by the Council and/or Environment Southland (M) anything described as a network utility operation in s166 of the Resource Management Act 1991 (N) <u>Educational Activities</u></p> <p>AND</p> <p>Retain Objectives as notified subject to minor amendment recommended in response to submission 65.35 below.</p>
<p>53.19 NZ Transport Agency</p>	<p>Support Objective 1. RELIEF SOUGHT: Retain Objective 1 as proposed.</p>	<p>Accept in part</p> <p>RECOMMENDATION:</p> <p>Retain 2.14.2 Objective 1 subject to minor amendment recommended in response to submission 65.35 below.</p>
<p>65.35 ICC Environ- mental and Planning Services</p>	<p>Support Objective 1 subject to amendment of typo. RELIEF SOUGHT: Amend Objective 1 as follows: “Subdivision and development is promoted that is to <u>to</u> integrated with existing communities, infrastructure and public spaces” Or</p>	<p>Accept in part</p> <p>It is considered that the Objective as notified could be improved to make it clear that the overarching goal is not the <i>promotion</i> of well integrated subdivision. The Proposed District Plan is seeking well integrated subdivision itself.</p> <p>RECOMMENDATION:</p>

	<p>"Subdivision and development is promoted that is integrates with existing communities, infrastructure and public spaces <u>is promoted.</u>"</p>	<p>Reword 2.14.2 Objective 1 as follows: "Subdivision and development is promoted that is integrated with existing communities, infrastructure and public spaces."</p>
<p>88.8 Federated Farmers</p>	<p>Support Objective 1.</p> <p>The submitter encourages Council to fulfil this Objective through a suite of tools and planning approaches, including strategic use of development contributions to incentivise or recover the costs associated with development, rather than by placing unnecessary restrictions on landowners.</p> <p>RELIEF SOUGHT: Adopt the Objective as proposed.</p>	<p>Accept in part</p> <p>RECOMMENDATION:</p> <p>Retain 2.14.2 Objective 1 subject to minor amendment recommended in response to submission 65.35 above.</p>
<p>88.9 Federated Farmers <i>(covered in s42A Report No. 26 Soils, Minerals and Earthworks)</i></p>	<p>Oppose Objective 3</p>	<p><i>(Recommendation in Report No. 26 is to reject this submission)</i></p>
<p>2.14.3 Policies</p>		
<p>78.7 Ministry of Education</p>	<p>The submitter supports the policies, but suggests the addition of a new policy so that the location / or provision of education activities is recognised as a matter to be considered when planning a subdivision.</p> <p>RELIEF SOUGHT: Add additional policy: <u>"Policy X: To include the consideration of education activities when preparing applications for subdivision consent."</u></p>	<p>Accept in part</p> <p>As stated in response to submission 78.6 above, it is not considered necessary to have a specific policy addressing educational activities. However, amending the definition of Infrastructure to include educational activities should address the concerns of the submitter.</p> <p>RECOMMENDATION:</p> <p>Amend the definition of "infrastructure" as set out in response to submission 78.6 above.</p>

53.23 NZ Transport Agency	Support Policy 2 - Zoning. The submitter's task of planning infrastructure for the future is enhanced by development occurring as anticipated by the District Plan. RELIEF SOUGHT: Retain Policy 2 as proposed.	Accept RECOMMENDATION: Retain 2.14.3 Policy 2 as notified.
117.16 Southern District Health Board	Support Policy 2 - Zoning. The submitter supports a buffer between residential and industrial zones as a way of mitigating adverse public health effects.	Accept RECOMMENDATION: Retain 2.14.3 Policy 2 as notified.
117.15 Southern District Health Board	Comment on Policy 3 – Urban Design. The submitter believes that in relation to public health, good urban design should also include factors such as effluent disposal, stormwater and water source. Good urban design should also consider landscape and the ability for future buildings to capture passive solar heat. RELIEF SOUGHT: No decision specified.	Noted The qualities of good urban design include the value of “custodianship”, ensuring design is environmentally sustainable, safe and healthy. It should also be noted that issues relating to water and soil health are covered elsewhere in the Proposed District Plan and should be considered as part of the subdivision consent process.
88.12 Federated Farmers	Support Policy 5 – Reticulated Services. RELIEF SOUGHT: Adopt the Policy as proposed.	Accept RECOMMENDATION: Retain 2.14.3 Policy 5 as notified.
77.42 Te Runaka o Waihopai and Te Runaka o Awarua	Support Policy 8 – Iwi. RELIEF SOUGHT: Retain 2.14.3 Policy 8 as notified.	Accept RECOMMENDATION: Retain 2.14.3 Policy 8 as notified.
2.14.4 Methods of Implementation		
88.14 Federated	Support Method 2.	Accept

<p>Farmers</p>	<p>The submitter favours the provision of advice rather than a “one size fits all” regulatory approach which can restrict legitimate and reasonable land use decisions.</p> <p>RELIEF SOUGHT: Adopt the Method as proposed.</p>	<p>RECOMMENDATION:</p> <p>Retain 2.14.4 Method 2 as notified.</p>
<p>69.13 ICC Roading Manager</p>	<p>Oppose Method 5 in part.</p> <p>The submitter considers that this clause is unclear in the way it is written and revision would ensure clarity of intent.</p> <p>RELIEF SOUGHT: Revise wording of Method 5.</p>	<p>Accept in part</p> <p>The Methods of Implementation listed are not all Rules in the Proposed District Plan but are methods that the Council will use to work towards the Objectives and Policies.</p> <p>It is considered that Method 5 could be amended to make it clearer what the role of the Bylaw is in relation to the District Plan. While the details of the Bylaw are not enforced through the District Plan, they are relevant to ensuring that subdivision results in sustainable and well integrated development.</p> <p>The Bylaw and its status is referred to in the Introduction to Section 2.14 and as a note to the subdivision rule. It is also referred to in the Infrastructure sections of the Proposed Plan.</p> <p>RECOMMENDATION:</p> <p>Amend Method 5 as follows:</p> <p>Method 5 Where engineering works are required as part of a subdivision, the Council's Code of Practice for Land Development and Subdivision Infrastructure Invercargill City Council Bylaw 2013/1 is applicable.</p> <p><u>Recognition and enforcement of the Invercargill City Council Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure for the development, operation, upgrading and replacement of infrastructure carried out as part of a subdivision.</u></p>

SECTION 3.18 - RULES		
<p>79.29 KiwiRail Holdings Ltd Covered in Section 42A Report No. 19. Infrastructure</p>	<p>Support 3.18.3</p> <p>The submitter considers that it is important that the significant transport infrastructure is protected from inappropriate subdivision, use and development</p> <p>RELIEF SOUGHT: Retain 3.18.3</p>	<p><i>(Recommendation in previous report was to accept)</i></p>
<p>88.90 (b) Federated Farmers (Covered in part in Section 42A Report No. 7 Water)</p>	<p>Oppose 3.18.3 and 3.18.4 in part.</p> <p>The submitter believes that the rule does nothing to provide the reader or subdivider with any confidence that a well managed or reasonable subdivision proposal will clear the multiple hurdles this Rule sets out, and there is potential that there will be standards set that are capricious, not effects based, and which are inconsistent with more robust environmental policies set at the regional level. The submitter considers that where Council is seeking to address specific environmental impacts these should be specifically mentioned, and should not seek to replicate or differ from any relevant rules developed by Southland Regional Council.</p> <p>The submitter does not believe Council’s decision making on particular subdivision consent applications should include the productive capacity of the district’s soils.</p> <p>The submitter is particularly concerned with the way the Rule restricts the flexibility for land users to make legitimate land use decisions for the property they own and maintain, particularly in the Rural Zone.</p> <p>The submitter does not believe it is the subdivider’s responsibility to develop a subdivision plan that enables any permitted land use activities in the relevant zone and considers it is a very high hurdle to expect that a subdivision proposal may consider and account for other potential land uses. As an alternative the submitter asks that Council specify the relevant permitted activities Subdivision should seek to enable in each zone.</p>	<p>Reject</p> <p>For further discussion, see Section 5 of this report.</p> <p>It is considered that the strengthened policy base of the Proposed District Plan should aid the developer in ascertaining whether their proposal is “well-managed” or “reasonable”. The subdivision objectives and policies should be read in conjunction with the wider District Wide Policies as well as the specific zone policies as a guide for what types of subdivisions may be acceptable in terms of effects on the environment, including the wider community.</p> <p>The matters of consideration listed in 3.18.4 are not seeking to duplicate or any rules developed by Environment Southland. There is however an integrated management approach taken throughout the Proposed District Plan that also applies to subdivision.</p> <p>The productive capacity of the soil can be a valid consideration at the time of subdivision, particularly for subdivisions creating undersized lots in rural areas. The Proposed Regional Policy Statement includes policies seeking to avoid loss of high value soils from productive use, through inappropriate subdivision. The Invercargill city district contains high value soils which are recognised and provided for throughout the Proposed District Plan. Subdivision that leads to an increase in the need for on-site wastewater management systems also requires consideration of the impacts of the subdivision on the soil. This matter may be more relevant in considering non-complying subdivision proposals,</p>

	<p>RELIEF SOUGHT:</p> <ul style="list-style-type: none"> • Delete proposed Rule 3.18.4 (C) “Potential effects on the environment of land uses enabled by the subdivision”. • Delete proposed Rule 3.18.4 (D) “The extent to which the subdivision enables land uses which will maintain the life supporting capacity and productivity of the district’s soils”. • Delete proposed Rule 3.18.4 (Q) “The extent to which the proposed subdivision enables uses permitted in the zone”. <p>(Note: The part of the submission point that refers to the protection of waterways from stock and Rule 3.18.4 (I) was addressed in an earlier Section 42A report.)</p> <p>FS8.12 (b) Department of Conservation - (Covered in part in Section 42A Report No. 7 Water)</p> <p><i>Oppose submission 88.90</i> The further submitter considers that it is appropriate to consider the matters listed in 3.18.4 in applications for subdivision, and to consider the potential effects of land uses on the land enabled by the subdivision.</p> <p>RELIEF SOUGHT: Decline relief sought by submission 88.90.</p> <p>(Note: the further submitter’s comments on the protection of waterways from damage by stock was addressed in an earlier Section 42A report.)</p> <p>FS30.4 Southern District Health Board - (Covered in part in Section 42A Report No.7 Water)</p> <p><i>Oppose submission 88.90</i> The further submitter considers that consideration of the potential effects of land uses enabled by subdivision is vital to the health of individuals and communities. Flow on effects of inappropriate land uses may result in poor soil health and poor water quality. Ensuring appropriate and sustainable land use is critical for maintaining the life supporting capacity and productivity of the district’s soils.</p> <p>Each landowner has a responsibility to consider cumulative effects and the</p>	<p>however, even if this is removed, due to the discretionary activity status this can be considered where necessary. The benefits of including the matter to ensure that it is highlighted to plan users as a potential matter of consideration outweigh the benefits of removing it.</p> <p>In response to the submitter’s concerns relating to 3.18.4(C) and (Q), it is acknowledged that the subdivider may not know what type of development will eventuate on allotments created. However, it is appropriate to consider what type of activity could be expected to be carried out, or that could be permitted to ensure that the subdivision results in a development appropriate for the specific zone into the future.</p> <p>As discussed in Section 5 of this report, these matters of consideration are consistent with the overall approach to subdivision through the Issues, Objectives and Policies.</p> <p>The subdivision rule does not restrict land use options. The restrictions for land use are set out in the zone provisions and the other district wide rules. The alternative referred to in the submission of including the relevant permitted activities for each zone, are in fact set out in the Proposed District Plan.</p> <p>RECOMMENDATION: Retain 3.18.3 and 3.18.4 (C), (D) and (Q) as notified.</p>
--	---	---

	<p>flow on effects of land based activities. Soil and water are interconnected and contamination of Southland’s soil and waterways ultimately affects the health of individuals and communities.</p> <p>RELIEF SOUGHT: Retain: Rule 3.18.4 (C), Rule 3.18.4 (D) and Rule 3.18.4 (I)</p> <p>(Note: The further submitter’s comments on the protection of waterways from damage by stock and Rule 3.18.4 (I) was addressed in an earlier Section 42A report.)</p> <p>FS39.17 (b) Environment Southland <i>Oppose submission 88.90</i></p> <p>The further submitter states that the rule is not inconsistent with any Environment Southland rules, and even it if was, the more specific water related ES rules would prevail. They consider that the proposed rule allows for integrated management and the protection of water and soil related values through the subdivision process. They believe that the consideration in a holistic manner of all the matters covered by 3.18.4 at the subdivision stage will lead to better environmental outcomes.</p> <p>RELIEF SOUGHT: Disallow decision sought.</p> <p>(Note: The further submitter’s comments on the protection of water related values through the subdivision process was addressed in an earlier Section 42A report.)</p>	
<p>78.8 Ministry of Education</p>	<p>Support 3.18.4 in part.</p> <p>The submitter considers that the matters over which Council reserves discretion should also include consideration of education facilities.</p> <p>RELIEF SOUGHT: Amend by including the following:</p>	<p>Reject in part</p> <p>As stated in response to submission 78.6 and 78.7 above, it is not considered necessary to have a specific matter of consideration addressing educational activities. However, amending the definition of Infrastructure to include educational activities should address the concerns of the submitter.</p>

	<u>"Integration with and effects on education activities"</u>	RECOMMENDATION: Amend the definition of "infrastructure" as set out in response to submission 78.6 above.
18.101 (c) Environment Southland (Covered in part in Section 42A reports: Report No. 6 Surface of Water Activities Report No. 7 Water	Support 3.18.4 (T). RELIEF SOUGHT: Retain <i>(Note: Submission on 3.18.4 (I) and (P) have been addressed in earlier Section 42A reports.)</i>	Accept RECOMMENDATION: Retain 2.18.4(T) as notified.
18.102 Environment Southland	Support 3.18.6 (A) and (B) RELIEF SOUGHT: Retain	Accept RECOMMENDATION: Retain 3.18.6 (A) and (B) as notified.
103.66 Invercargill Airport Ltd	Oppose in part 3.18.6. The submitter considers that to limit the number of people exposed to high levels of aircraft noise the minimum lot size rules within the Outer Control Boundary (OCB) and the Single Event Sound Exposure Boundary (SESEB) should be more stringent. The submitter also believes that the minimum 15ha lot size in the Airport Protection Zone should be retained from the operative District Plan. RELIEF SOUGHT: Amend 3.18.6(f) to prohibit the creation of allotments in the Outer Control Boundary (OCB) and the Single Event Sound Exposure Boundary (SESEB) less than 1ha in Otatara and 500m ² in the Residential 1 Zone.	Accept in part The recommended minimum lot size of 15ha in the Airport Protection Zone should be carried through to the Proposed District Plan. It is recommended that this be included within Rule 3.18.6 making any subdivision less than 15ha a non-complying activity. In relation to subdivision within the OCB and SESEB, the submitter is seeking prohibited status for subdivision under the designated allotment size. Using prohibited activity status is considered inflexible and may not, in reality, be effects-based, particularly when the subdivision may result in very small indiscretions that will not increase the number of residents living in the area. The Proposed District Plan provisions as notified make it a

	<p>Insert a minimum 15ha lot size for the Airport Protection Zone.</p>	<p>non-complying activity to subdivide below the submitter's preferred minimum lot sizes. The Objectives and Policies supporting the minimum lot sizes within the OCB and SESEB are largely located within the Transportation section of the Proposed District Plan. They do not support "prohibited activity" status but along with the non-complying activity status will enable all affected parties to be involved and for all adverse effects on the transportation network to be considered.</p> <p>While Section 104 of the RMA is of relevance, particular restrictions for non-complying activities are set out in Section 104D of the RMA. They state that a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either the adverse effect of the activity will be minor, or the application is for an activity that will not be contrary to the objectives and policies of the relevant District Plan. In the context of the Proposed District Plan, as notified, non-complying activities are the hardest activities for which to obtain a resource consent.</p> <p>In the Operative District Plan residential development on allotments less than 1ha in the Otatara Sub-Area and less than 500m² in the Domicile Sub-Area were considered discretionary activities.</p> <p>With the imposition of minimum lot sizes in the subdivision provisions, as well as standards on residential density in the Proposed District Plan, potential developers should be well aware that these restrictions exist.</p> <p>RECOMMENDATION:</p> <p>Retain 3.18.6 (F) and (G), as they relate to the OCB and SESEB, as notified.</p> <p>AND</p> <p>Insert an additional clause to Rule 3.18.6 as follows:</p> <p><u>"(M) Within the Airport Protection Zone – Allotments of less than 15 hectares."</u></p>
--	--	--

[THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

APPENDIX 2 - RECOMMENDED CHANGES TO THE PROPOSED DISTRICT PLAN

(Underline indicates recommended additions, strikethrough indicates recommended deletions.)

SECTION TWO ISSUES, OBJECTIVES AND POLICIES

2.14 Subdivision

No change

Note: No change

2.14.1 Issues

The significant resource management issues for subdivision are:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change

2.14.2 Objectives

Objective 1: Subdivision and development is ~~promoted that is~~ integrated with existing communities, infrastructure and public spaces.

Objective 2: No change

Objective 3: No change

Objective 4: No change

Objective 5: No change

Objective 6: No change

Objective 7: No change

Objective 8: No change

Objective 9: No change

Objective 10: No change

Objective 11: No change

2.14.3 Policies

Policy 1 Adverse Effects: No change

Explanation: No change

Policy 2 Zoning: No change

Explanation: No change

Policy 3 Urban Design: No change

Explanation: No change

Policy 4 Transportation networks: No change

Explanation: No change

Policy 5 Reticulated Services: No change

Explanation: No change

Policy 6 Natural Hazards: No change

Explanation: No change

Policy 7 Landscapes and Heritage: No change

Explanation: No change

Policy 8 Iwi: No change.

Explanation: No change

Policy 9 Infrastructure: No change

Explanation: No change

Policy 10 Contaminated Land: No change

Explanation: No change

Policy 11 Public Access: No change

Explanation: No change

2.14.4 Methods of Implementation

Method 1 No change

Method 2 No change

Method 3 No change

Method 4 No change

Method 5 ~~Where engineering works are required as part of a subdivision, the Council's Code of Practice for Land Development and Subdivision Infrastructure Invercargill City Council Bylaw 2013/1 is applicable.~~

Recognition and enforcement of the Invercargill City Council Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure for the development, operation, upgrading and replacement of infrastructure carried out as part of a subdivision.

SECTION THREE RULES

3.18 Subdivision

3.18.1 No change

3.18.2 No change

3.18.3 No change

3.18.4 No change

Electricity Transmission Lines

3.18.5 No change

Protected Areas and Minimum Lot Sizes

3.18.6 Subdivision is a non-complying activity where it would create lots as follows:

- (A) Within areas identified on the Planning Maps as outstanding landscapes and natural features.
- (B) Within areas identified on the Planning Maps as containing significant indigenous biodiversity.
- (C) Within Industrial 1, Industrial 1A (Marine) and Industrial 2 Zones: Allotments of greater than one hectare.
- (D) Within the Industrial 3 Zone: Allotments of less than one hectare.
- (E) Within the Industrial 4 Zone: Allotments of less than one hectare and which do not comply with the concept plan.
- (F) Within the Otatara Zone: Allotments of less than one hectare (if not connected to the Council's reticulated sewerage system) or 4,000 square metres (if connected to the Council's sewerage system).

And

Allotments of less than one hectare and within the Outer Control Boundary and the Single Event Sound Exposure Boundary.

(G) Within the Residential 1 Zone: Allotments of less than 350 square metres.

And

Allotments of less than 500 square metres and within the Outer Control Boundary and the Single Event Sound Exposure Boundary.

(H) Within the Residential 1A Zone: Allotments of less of 350 square metres where resource consent and a Code Compliance Certificate have not been issued for a dwelling as part of a medium density housing development.

(I) Within the Residential 2 Zone: Allotments of less than 750 square metres.

(J) Within the Residential 3 Zone: Allotments of less than 1,500 square metres.

(K) Within the Rural 1 Zone: Allotments of less than four hectares.

(L) Within the Rural 2 Zone: Allotments of less than two hectares.

(M) Within the Airport Protection Zone: Allotments of less than 15 hectares.

Subdivision in Areas Subject to Inundation

3.18.7 No change

Esplanade Strips

3.18.8 No change

3.18.9 No change

3.18.10 No change

3.18.11 No change

3.18.12 No change

SECTION FOUR DEFINITIONS

Allotment: No change

Boundary: No change

Boundary Adjustment: No change

Fee Simple Subdivision: No change

Infrastructure¹: means the systems, services, structures and networks associated with necessary for operating and supplying essential utilities and services to the community including but not limited to:

- (A) the supply and distribution of electricity
- (B) water supply
- (C) stormwater
- (D) street lighting and lighting of public land
- (E) the receiving and sending of communications, including telecommunications and radiocommunications
- (F) navigation aids
- (G) data recording and monitoring systems, including but not restricted to meteorological facilities
- ~~(H) roading and street furniture~~
- (H) sewage collection, treatment and disposal
- (I) the distribution or transmission of natural or manufactured gas, petroleum, biofuel or geothermal energy
- (J) the transportation network, including the roads, cycleways, walkways, airport, seaport and railway
- (K) defence facilities
- (L) Flood alleviation works managed by the Council and/or Environment Southland
- (M) anything described as a network utility operation in s166 of the Resource Management Act 1991
- (N) Educational activities

Unit Title Subdivision: No change

¹ Text shown in blue indicates changes recommended in Report No.19 Infrastructure