

BEFORE THE ENVIRONMENT COURT

AT CHRISTCHURCH

ENV – 2016 – CHC –

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14(1) of the First Schedule of
the Act in relation to Decisions on the Proposed
Invercargill City District Plan

BETWEEN **Director-General of Conservation**

Appellant

AND **Invercargill City Council**

Respondent

NOTICE OF APPEAL

Dated 8 December 2016

Department of Conservation

Policy and Regulatory Services Group, Planning Shared Service

Department of Conservation

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1. I, Lou Sanson, Director-General of Conservation (the Director-General) wish to appeal part of the Decisions of Invercargill City Council on the Proposed Invercargill City District Plan (the Decision).
2. I made a submission and further submission on the proposed District Plan.¹
3. I am not a trade competitor for the purposes of section 308C or section 308CA of the Resource Management Act 1991.
4. I received notice of the Decision on or about 29 October 2016.
5. The Decision was made by the Invercargill City Council (the Council).
6. The parts of the Decision that I am appealing are:

Biodiversity

- 6.1. The Council's decisions² relevant to the identification and management of indigenous biodiversity which rejected my submission seeking:
 - a) to add significance criteria to section 2.3: Introduction³ which deals with the biodiversity provisions in the Plan; and
 - b) to retain 2.3.2 Objective 1 as notified⁴; and
 - c) that section 2.3.3 Policy 1⁵ is amended to identify significant indigenous biodiversity by applying the significance criteria sought

¹Submitter Number 64 and Further Submitter Number FS8

²Decision No. 16 Biodiversity

³Submission Point 64.1

⁴Submission Point 64.2

⁵Submission Point 64.4

in section 2.3: Introduction, and removing wording which restricts the identification to areas identified in the District Planning Maps only; and

- d) to identify areas of significant indigenous biodiversity through criteria contained in section 2.3: Introduction⁶; and
- e) to amend section 3.1⁷ to direct that the provisions contained in 3.1.1, 3.1.2, 3.1.3, 3.1.4, 3.1.5 and 3.1.6 apply to all areas containing biodiversity values; and
- f) to retain Rule 3.1.1 as notified⁸; and
- g) to add new controlled activity Rule 3.1.2⁹; and
- h) the deletion of rule 3.1.3¹⁰ which outlines a discretionary activity rule; and
- i) to retain Rule 3.1.4(D)¹¹ which seeks to restrict earthworks from occurring within 10m of area of significant indigenous biodiversity; and
- j) to retain Rule 3.1.5¹² as notified.

Coastal Environment

6.2. The Council's decisions¹³, relevant to the identification of the Coastal Environment to reject my submission:

- a) on 2.4.3 Policy 1¹⁴, seeking to acknowledge that the coastal environment may extend beyond the area identified on the District Planning Maps, and instead the coastal environment should be considered on a case-by-case assessment based on the policies of the NZCPS 2010; and

⁶ Submission Point 64.1

⁷ Submission Point 64.8

⁸ Submission Point 64.9

⁹ Rule introduced through Submissions and Further Submissions.

¹⁰ Submission Point 64.10

¹¹ Submission Point 64.11

¹² Submission Point 64.12

¹³ Decision No. 17 Coastal Environment

¹⁴ Submission Point 64.16

- b) on 2.4.3 Policy 2¹⁵, seeking amendments maintain consistency with Objective 4 regarding appropriate locations for residential development; and
- c) seeking to replace 2.4.3 Policy 5¹⁶ with new text; and
- d) on 2.4.3 Policy 6¹⁷, seeking to redraft 2.4.3 Policy 6 so that priority is not given to certain land uses without first acknowledging the context of the coastal environment and other uses; and

Energy

- 6.3. The Council's decision¹⁸ to reject my submission to retain the Rules in 3.6 as notified¹⁹ and introducing a new provision (Rule 3.6.2), restricting energy generation activities in areas of significant indigenous biodiversity that are identified in the District Planning Maps only.

Soils, Minerals and Earthworks

- 6.4. The Council's decisions²⁰ to reject my submission to retain the Soils, Minerals and Earthworks Chapter as notified.²¹

Definitions

- 6.5. The Council's decision²² to reject my submission on the definition agriculture²³.

7. The reasons for the appeal are as follows:

- 7.1. It is the Council's function to control land use to maintain indigenous biological diversity under section 31(1)(b)(iii) of the Resource Management Act 1991 (RMA), and under section 6(c) of the RMA to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna. The objectives and policies in the

¹⁵ Submission Point 64.17

¹⁶ This amendment was made through the Hearing decisions and is not consistent with the s42A report.

¹⁷ Submission Point 64.18

¹⁸ Decision No. 12 Energy

¹⁹ Submission Point 64.20

²⁰ Decision No. 26 Soils, Minerals and Earthworks

²¹ Submission Point 64.34

²² Decision No. 32 Definitions

²³ Submission Point 64.35

proposed District Plan need to clearly outline the framework to achieve the purposes of the RMA and enable the Council to meet its responsibilities under the Act. The drafting of objectives and policies need to be amended to achieve the purpose of the Act.

7.2. The Council's reliance on areas of significant vegetation identified on the District Planning Maps does not achieve the purpose of the Act as:

- a) the identification and mapping exercise which the areas on the Planning Maps are based on was undertaken in 1999. This data while helpful, is not comprehensive enough to be the sole basis on which to rely for the protection of significant biodiversity, or the maintenance of indigenous biodiversity; and
- b) the criteria used to identify areas in 1999 has subsequently changed and been updated to be more accurate and reflective of actual values which warrant protection. This means that the criteria that the survey (and subsequently District Planning Maps) is obsolete, and not based on current best practice; and
- c) the identification and mapping exercise undertaken in 1999 focuses on plant species. No assessments were undertaken for habitats of indigenous fauna; and
- d) the District Planning Maps are not considered to be inclusive of all areas of significant indigenous biological diversity.

7.3. the rules related to biodiversity at 3.1 in the proposed District Plan do not provide adequate maintenance of indigenous biodiversity or protection of significant indigenous biological diversity, as the provisions only apply to those areas identified on the District Planning Maps which, as outlined above, are not inclusive of all values present.

7.4. The Decision states:²⁴

At the hearing, the submitters and Council advisers agreed that although the District Planning Maps are not up-to-date in showing areas of significant indigenous ecosystems and habitats with

²⁴ Decision no. 16 Biodiversity at Decision 16/4 Reasons 5
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indigenous biodiversity values, a review of these should await the Proposed Southland Regional Policy Statement and the National Policy Statement on Biodiversity being finalised and becoming operative. The Committee agrees with that approach.

- 7.5. The Proposed Southland Regional Policy Statement is under appeal, and is likely to set assessment criteria for significance of indigenous biodiversity which the Proposed District Plan will be required to give effect to under section 75(3) of the RMA.
- 7.6. The Ministry for the Environment has stated the 2011 consultation on a proposed National Policy Statement for Biodiversity identified a number of issues, and a new proposed National Policy Statement for Biodiversity is to be developed which will require a further formal public consultation process. Given this process is likely to take some years before a final NPS becomes operative, it is irresponsible to use this as a reason to further delay work on identification of significant biodiversity in Invercargill City.
- 7.7. The New Zealand Coastal Policy Statement 2010 (NZCPS) clearly outlines at Policy 1 the nature and extent of the coastal environment to which it applies. Although delineating the coastal environment on the planning maps may be helpful, it is neither accurate nor fully inclusive of the full coastal environment. This is because the coastal environment is shaped by natural processes which change and shift over time. The provisions relating to the identification of the coastal environment need to recognise that the extent of this environment will change over time and is also dependent on the scale and nature of any activities proposed.
- 7.8. The NZCPS also clearly outlines how some values should be protected within the coastal environment, and that this protection will be achieved through:

- a) avoiding adverse effects on outstanding natural landscapes and outstanding natural features²⁵ and avoiding adverse effects on threatened, rare or protected species²⁶.
- b) Avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on indigenous biodiversity²⁷ and other natural features or landscapes²⁸.

7.9. The Biodiversity Chapter contains provisions that are more applicable in the Soils, Mineral and Earthworks Chapter. Rule 3.1.1(D) contained in the Biodiversity Chapter controls earthworks within areas of significant biodiversity. The Biodiversity Chapter covers the clearance of indigenous biodiversity values, and any rules controlling earthworks are better placed in the Soils, Minerals and Earthworks Chapter.

7.10. Retaining a setback for earthworks from areas containing values identified in the criteria contained in section 2.3: Introduction is important as this helps to protect the integrity and function of the indigenous biodiversity and assists in protecting it from any adverse effects of earthworks.²⁹

7.11. The definition of “agriculture” in the Decision is very detailed and includes a list of activities that may be associated with agricultural land use, but could come under other sections of the proposed District Plan as specifically managed activities in their own right.

8. I seek the following relief:

- a) Amend the provisions of the Invercargill City District Plan as set out in the following Table:

Provision	Decision Text (<u>underlined</u> where additions are made and striketrough where text is deleted through the decision)	Amendments Sought (<u>Bold underline</u> where text is inserted and <u>striketrough and Bold underline</u> where text is deleted,
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²⁵ NZCPS 2010, Policy 15(a)

²⁶ NZCPS 2010, Policy 11(a)

²⁷ NZCPS 2010, Policy 11(b)

²⁸ NZCPS 2010, Policy 15(b)

²⁹ This relates to Submission Point 64.11, where the D-G sought to retain the 10m setback for earthworks contained in Rule 3.1.1(D). As all earthworks should be controlled in the Soils, Minerals and Earthworks Chapter, this setback should be included in the Rule framework for 3.17.

		by the amendments sought through this appeal)
2.3 Introduction	<p>...</p> <p>Areas of significant indigenous biodiversity have been identified having regard to the following criteria:</p> <p>(A) Representativeness – reflecting importance based on ecological Districts (Southland Plains, Waituna and Foveaux) enabling a comparison between historic (typically prehuman) and present distributions.</p> <p>(B) Rarity/Distinctiveness – with rarity being the presence of species that are uncommon to a particular area, and distinctiveness relating to unusual features or species found on the site.</p> <p>(C) Landscape Context – incorporating a general assessment of:</p> <p>(a) <i>Diversity/pattern</i> – whether or not an ecological sequence is represented within any one site.</p> <p>(b) <i>Shape</i> – for example, discontinuous, irregular or compact.</p> <p>(c) <i>Size</i> – for example, large, medium or small compared to other such remaining areas.</p> <p>(d) <i>Connectivity</i> – for example, very isolated, semi-continuous, or part of a continuous landscape.</p> <p>(D) Sustainability – if the ecological role of the site, for example, providing a corridor for movement of birds, will remain intact under the current management regime then it is sustainable.</p> <p>(E) Viability – refers to the continued integrity of the ecosystem itself, as distinct from the role it provides.</p>	<p>Areas of significant...</p> <p><u>An area is significant if it meets one or more of the criteria listed below.</u></p> <p>(a) Representativeness</p> <p>(i) <u>Indigenous vegetation or habitat of indigenous fauna is representative, typical or characteristic of the natural diversity of the relevant ecological district or coastal biogeographic region. This can include degraded examples of their type, or represent all that remains of indigenous biodiversity in some areas.</u></p> <p>(ii) <u>Indigenous vegetation or habitat or indigenous fauna that is a relatively large example of its type within the relevant ecological district or coastal biogeographic region.</u></p> <p>(b) Rarity/Distinctiveness</p> <p>(i) <u>Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its form extent in the Regional, or relevant land environment, ecological district, freshwater environment or coastal biogeographic region.</u></p> <p>(ii) <u>Indigenous vegetation or habitat of indigenous fauna that supports an indigenous species that is threatened, at risk, or uncommon, nationally, or within the relevant ecological district or coastal biogeographic region.</u></p>

	<p>(F) Threat/Fragility – with potential threats being grouped as:</p> <ul style="list-style-type: none"> (a) <i>Biotic</i> – for example, troublesome plants and introduced animals. (b) <i>Physical climatic</i> – for example, accelerated erosion. (c) <i>Human</i> – for example, logging, burning, people damage. <p>Sites within the District containing areas of significant indigenous biodiversity were assessed by an ecologist employed by the Council. Having regard to the criteria above, sites were ranked using a numerical scoring of each of the above factors. There was an additional qualitative assessment. Where sites were not considered to be of significance, having regard to the above factors, they have not been included in the District Plan.</p> <p>The most important areas of significant indigenous biodiversity within...</p>	<ul style="list-style-type: none"> (iii) <u>The site contains indigenous vegetation or an indigenous species at its distribution limit within Southland Regional or nationally.</u> (iv) <u>Indigenous vegetation or habitat or an association of indigenous species that is distinctive, or restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combination of factors.</u> <p>(c) Diversity and Pattern</p> <ul style="list-style-type: none"> (i) <u>Indigenous vegetation or habitat of indigenous fauna that contains a high diversity of indigenous ecosystem or habitat types, indigenous taxa, or has changes in species composition reflecting the existence of diverse natural features or ecological gradients.</u> <p>(d) Ecological Context</p> <ul style="list-style-type: none"> (i) <u>Vegetation or habitat of indigenous fauna that provides or contributes to an ecological linkage, ecological corridor of network, buffering function, or ecosystem service.</u> (ii) <u>A wetland which plays an important hydrological, biological or ecological role in the natural functioning of a water body, including a river or coastal system, or springs, lakes and streams.</u>
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		<p>(iii)<u>Indigenous vegetation or habitat of indigenous fauna that provides important habitat (including, but not limited to, refuges from predation, or key habitat for feeding, breeding, or resting) for indigenous species, either seasonally or permanently.</u></p> <p>The most important areas of significant indigenous biodiversity within ...</p>
2.3.2: Objective 1	<p>Indigenous vegetation biodiversity and habitats with indigenous biodiversity values are maintained, and <u>where appropriate</u> restored to a <u>healthy functioning state</u>, and where appropriate enhanced.</p>	<p>Indigenous vegetation biodiversity and habitats with indigenous biodiversity values are maintained, and where appropriate restored or to a <u>healthy functioning state</u>, <u>to a healthy functioning state</u>, and <u>where possible, where appropriate</u> enhanced.</p>
2.3.3: Policy 1	<p>Delineation: To delineate on the District Planning Maps areas of significant indigenous biodiversity. Explanation: <i>Areas of significant indigenous biodiversity are shown on the District Planning Maps to indicate their location, identify the precise areas where some District Plan Rules apply, and provide a baseline of information of the extent of such areas in 1999.</i></p>	<p><u>Identification-Delineation:</u> To <u>identify-delineate on the District Planning Maps</u> areas of significant indigenous biodiversity <u>using the criteria contained in section 2.3: Introduction</u>, for identifying these areas as detailed in this <u>plan</u>. Explanation: <u>Areas of s Significant indigenous biodiversity includes both significant indigenous vegetation and significant habitats of indigenous fauna. These areas are identified by applying the criteria contained in section 2.3: Introduction. Those areas which are shown on the District Planning Maps to indicate their location, identify the precise areas where some District Plan Rules apply, and provide a baseline of information of the extent of such areas in 1999, when the last vegetation survey took place. It should be noted that</u></p>

		<i>this survey was based on obsolete criteria which is no longer current best practice and only assessed flora (not fauna).</i>
2.3.4: Method 1	Delineation on the District Planning Maps of areas of <u>significant</u> indigenous biodiversity.	Identify or by D delineation on the District Planning Maps of areas of <u>significant</u> indigenous biodiversity <u>by assessing values against the criteria contained in section 2.3: Introduction.</u>
3.1	BIODIVERSITY This Rule applies to areas of significant indigenous biodiversity identified in the District Planning Maps.	Biodiversity This rule applies to areas of significant indigenous biodiversity identified in the District Planning Maps <u>containing biodiversity values.</u>
Rule 3.1.2	It is a permitted activity to: (A) ... (E) Trim vegetation: (a) <u>Within and immediately adjacent to</u> formed legal roadways, where such trimming is required to maintain road safety. (b) <u>On and immediately adjacent to</u> formed vehicle access ways <u>and vehicle tracks</u> , where such trimming is required to enable use by vehicles (including emergency vehicles where necessary). (c) <u>Immediately adjacent to</u> structures and lines <u>associated with network utility services</u> , where such trimming is required to avoid damage to such structures and lines. (d) <u>Immediately adjacent to</u> open drains, where such trimming is required in order to undertake maintenance of the drain. (e) <u>Immediately adjacent to boundary fences, where such trimming is required to avoid damage to the fence.</u>	It is a permitted activity to: (A) ... (E) Trim vegetation: (a) Within <u>On and within 2m of immediately adjacent to</u> formed legal roadways, where such trimming is required to maintain road safety. (b) <u>On and within 2m of immediately adjacent to</u> formed vehicle access ways <u>and vehicle tracks</u> , where such trimming is required to enable use by vehicles (including emergency vehicles where necessary). (c) <u>Within 2m of Immediately adjacent to</u> structures and lines <u>associated with network utility services</u> , where such trimming is required to avoid damage to such structures and lines. (d) <u>Within 2m of Immediately adjacent to</u> open drains, where such trimming is required in order to undertake maintenance of the drain.

	<p>(f) <u>On and immediately adjacent to formed public walking tracks, where such trimming is required to enable safe passage by people.</u></p> <p>(g) <u>Immediately adjacent to buildings and other structures, where such trimming is required to avoid damage to such buildings and structures.</u></p> <p>Provided that ..</p>	<p>(e) <u>Within 1m of Immediately adjacent to boundary fences, where such trimming is required to avoid damage to the fence.</u></p> <p>(f) <u>On and within 0.5m of immediately adjacent to formed public walking tracks, where such trimming is required to enable safe passage by people.</u></p> <p>(g) <u>Within 1m of Immediately adjacent to buildings and other structures, where such trimming is required to avoid damage to such buildings and structures.</u></p> <p>Provided that ...</p>
Rule 3.1.2	<p><u>It is a controlled activity to remove or fell vegetation:</u></p> <p>(A) <u>Within and immediately adjacent to formed legal roadways, where such removal or felling is required to maintain road safety.</u></p> <p>(B) <u>On and immediately adjacent to formed vehicle access ways and vehicle tracks, where such removal or felling is required to enable use by vehicles (including emergency vehicles where necessary).</u></p> <p>(C) <u>Immediately adjacent to structures and lines associated with network utility services, where such removal or felling is required to avoid damage to such structures and lines.</u></p> <p>(D) <u>Immediately adjacent to open drains, where such removal or felling is required in order to undertake maintenance of the drain.</u></p>	<p><u>It is a controlled activity to remove or fell vegetation containing biodiversity values:</u></p> <p>(A) <u>Within On and within 2m of immediately adjacent to formed legal roadways, where such removal or felling is required to maintain road safety.</u></p> <p>(B) <u>On and within 2m of immediately adjacent to formed vehicle access ways and vehicle tracks, where such removal or felling is required to enable use by vehicles (including emergency vehicles where necessary).</u></p> <p>(C) <u>Within 2m of immediately adjacent to structures and lines associated with network utility services, where such removal or felling is required to avoid damage to such structures and lines.</u></p>

	<p>(E) <u>Immediately adjacent to boundary fences, where such removal or felling is required to avoid damage to the fence.</u></p> <p>(F) <u>On and immediately adjacent to formed public walking tracks, where such removal or felling is required to enable safe passage by people.</u></p> <p>(G) <u>Immediately adjacent to buildings and other structures, where such removal or felling is required to avoid damage to such buildings and structures.</u></p> <p><u>The matters over which the Council shall exercise its control are:</u></p> <p>(a) <u>Replanting; and</u></p> <p>(b) <u>Disposal of trees and vegetation; and</u></p> <p>(c) <u>Visual, landscape, and ecological effects.</u></p>	<p>(D) <u>Within 2m of immediately adjacent to open drains, where such removal or felling is required in order to undertake maintenance of the drain.</u></p> <p>(E) <u>Within 1m of immediately adjacent to boundary fences, where such removal or felling is required to avoid damage to the fence.</u></p> <p>(F) <u>On and within 0.5m of immediately adjacent to formed public walking tracks, where such removal or felling is required to enable safe passage by people.</u></p> <p>(G) <u>Within 1m of immediately adjacent to buildings and other structures, where such removal or felling is required to avoid damage to such buildings and structures.</u></p> <p><u>The matters over which the Council shall exercise its control are:</u></p> <p>(a) ...</p> <p>(d) <u>The extent of the indigenous vegetation removal proposed.</u></p>
Rule 3.1.3	<p>It is a discretionary activity to:</p> <p>(A) <u>Construct any road, driveway or other such access way or road that is intended to be used by motorised vehicles.</u></p> <p>(B) <u>Construct network utility services including associated trenches and earthworks in a manner that will require the trimming, removal or changes to any indigenous vegetation or parts thereof, including any branches or roots, within the drip line of that vegetation.</u></p>	<p><u>It is a discretionary activity to:</u></p> <p>(A) <u>Construct any road, driveway or other such access way or road that is intended to be used by motorised vehicles.</u></p> <p>(B) <u>Construct network utility services including associated trenches and earthworks in a manner that will require the trimming, removal or changes to any indigenous vegetation or parts thereof, including any</u></p>

		<u>branches or roots, within the drip line of that vegetation.</u>
Rule 3.1.4	<p><u>Except as provided for in Rules 3.1.1 and 3.1.2, it is a non-complying activity to:</u></p> <p>(A) Remove any live indigenous vegetation, or alter such vegetation in a manner that destroys the biological viability of that vegetation, except where permitted under Rule 3.1.1 above.</p> <p>(B) Erect any building or other structure with a footprint greater than 10 square metres in area.</p> <p>(C) Plant exotic woodlots and commercial forestry.</p> <p>(D) Carry out earthworks within any area of significant indigenous biodiversity or within 10 metres of it.</p>	<p><u>Except as provided for in Rules 3.1.1 and 3.1.2 it is a non-complying activity to:</u></p> <p>(A) Remove any live indigenous vegetation, <u>or alter such vegetation in a manner that destroys the biological viability of that vegetation,</u> except where permitted under Rule 3.1.1 above.</p> <p>(B) <u>Erect any building or other structure with a footprint greater than 10 square metres in area.</u></p> <p>(C) Plant exotic woodlots and commercial forestry.</p> <p>(D) <u>Carry out earthworks within any area of significant indigenous biodiversity or within 10 metres of it.</u></p>
3.1.5: Matters of Discretion	<p>Applications under Rules 3.1.2 and 3.1.3 and 3.1.4 above shall address the following matters, which will be among those taken into account by the Council:</p> <p>(A) ...</p> <p>(P) <u>The economic costs and benefits of the activity for which consent is sought.</u></p>	<p>Applications under Rules 3.1.2 and 3.1.3 and 3.1.4 above shall address the following matters, which will be among those taken into account by the Council:</p> <p>(A) ...</p> <p>(P) <u>The economic costs and benefits of the activity for which consent is sought.</u></p>
2.4.3: Policy 1	<p>Identification and delineation: To identify the coastal environment and to delineate it on the District Planning Maps.</p> <p><i>Explanation: The District Planning Maps delineate the coastal environment within the Invercargill City District to enable easy identification provide clarity as to when District Plan provisions apply. The criteria used to identify areas within the coastal environment are:</i></p> <p>(A) Topography.</p> <p>(B) Height above mean sea level (used to identify areas which may be susceptible to sea level rise/storm surge).</p> <p>(C) Geology.</p>	<p>Identification and delineation: To identify the coastal <u>environment recognising that the landward extent of the coastal environment varies as a result of the dynamic coastal processes and values present, and may reach further inland than what is and to delineate it</u> on the District Planning Maps.</p> <p><i>Explanation: The <u>coastal environment is shaped by dynamic coastal processes. While the District Planning Maps delineate the coastal environment within the Invercargill City District to enable easy identification</u></i></p>

	<p>(D) Amenity values.</p> <p>(E) Botany.</p> <p>(F) Landscape values.</p>	<p><u>provide assist with clarity, the NZCPS 2010 clearly outlines the extent and characteristics as to when District Plan provisions apply. The criteria</u></p> <p>---</p>
2.4.3: Policy 2	<p>To identify the Bluff area, and the hamlet of ŌŌmaui as the appropriate locations for subdivision, use and development in the coastal environment and, <u>subject to providing for activities with a functional need to locate in the coastal environment</u>, to give priority to preservation of the natural character of the coastal environment elsewhere.</p>	<p>To identify the Bluff area, and the hamlet of ŌŌmaui as the appropriate locations for <u>residential development subdivision, use and development</u> in the coastal environment and, <u>subject to providing for activities with a functional need to locate in the coastal environment</u>, to give priority to preservation of the natural character of the coastal environment elsewhere.</p>
2.4.3: Policy 5	<p><u>Avoid, remedy or mitigate adverse effects on amenity, social, intrinsic, ecological, cultural, heritage, natural character and landscape and natural features values within the coastal environment.</u></p> <p><u>Explanation:</u> <u>The coastal environment contains a multitude of values and it is appropriate to manage activities to avoid, remedy or mitigate any adverse effects of activities on those values. Such action is consistent with the NZCPS and Regional Policy Statement for Southland.</u></p>	<p><u>Protect biodiversity, natural features and natural landscapes by: Aavoiding adverse effects on outstanding natural landscapes or features and threatened, rare or protected species; avoiding significant adverse effects on natural landscapes, natural features or indigenous biodiversity; and avoid, remedy or mitigate adverse effects on amenity, social, intrinsic, ecological, cultural, heritage, or other ecological, natural character and landscape and natural features values within the coastal environment.</u></p> <p><u>Explanation:</u> <u>The coastal environment contains a multitude of values and it is appropriate to manage activities to avoid adverse effects on outstanding natural character, outstanding natural landscapes, outstanding natural features and rare, threatened or protected species, and avoid significant adverse effects and avoid, remedy or mitigate any adverse effects of activities on</u></p>

		<u>those natural character, natural landscapes, natural features, indigenous biodiversity, amenity, social and cultural values. Such action is consistent with the NZCPS and Regional Policy Statement for Southland</u>
2.4.3: Policy 6	Functional need: To give priority to infrastructure, port and renewable energy projects that have a functional need of a coastal environment location, and make provision for other facilities and activities that have located in the coastal environment for historical reasons.	To give priority to recognise the <u>functional need for</u> infrastructure, port and renewable energy projects <u>in determining appropriate locations and/or management in the</u> that have a functional need of a coastal environment location, and make provision for other facilities and activities that have located in the coastal environment for historic reasons.
Rule 3.6.2	Small and community_ scale renewable energy generation <u>and distribution</u> with an installed electricity generation capacity of less than 10 of up to 20 kilowatts (kW) is a permitted activity <u>provided that where the energy generation facility is not located:</u> (A) ... (A) <u>The energy generation facility is not located:</u> (a) <u>In an area of significant indigenous biodiversity identified on the District Planning Maps</u> (b) <u>On the site of an identified building, structure, place or area identified in Appendix II – Sites of Heritage Value in this District Plan, or</u> (c) <u>Within an outstanding natural feature or landscape identified on the District Planning Maps.</u>	Small and community_ scale renewable energy generation <u>and distribution</u> with an installed electricity generation capacity of less than 10 of up to 20 kilowatts (kW) is a permitted activity <u>provided that where the energy generation facility is not located:</u> (A) ... (A) <u>The energy generation facility is not located:</u> (a) <u>In an area of significant indigenous biodiversity identified by the criteria contained in section 2.3: Introduction, identified on the District Planning Maps</u> (b) ... (B) <u>No more than three wind electricity generation turbines or masts are located on any site.</u>

	(B) <u>No more than three wind electricity generation turbines or masts are located on any site.</u>	
3.17.3	<p><u>The following conditions apply to the permitted activities in Rule 3.17.2:</u></p> <p>(A) <u>Within the Rural Zone no more than 50m³ shall be deposited on to, or extracted from, land containing high value soils, as shown on the District Planning Maps.</u></p> <p>(B) <u>Within the Airport Protection Zone or the Otatara Zone no earthworks shall result in standing bodies of water greater than 10m² in area.</u></p>	<p><u>The following conditions apply to the permitted activities in Rule 3.17.2:</u></p> <p>(A) <u>Within the Rural Zone no more than 50m³ shall be deposited on to, or extracted from, land containing high value soils, as shown on the District Planning Maps.</u></p> <p>(B) <u>Within the Airport Protection Zone or the Otatara Zone no earthworks shall result in standing bodies of water greater than 10m² in area.</u></p> <p>(C) <u>Earthworks are not undertaken within 10m of an area which contains values identified in the criteria contained in section 2.3: Introduction..</u></p>
3.17.6	<p><u>It is a non-complying activity to:</u></p> <p>(A) ...</p>	<p><u>It is a non-complying activity to:</u></p> <p>(A) ...</p> <p>(C) <u>Undertaken earthworks within 10m of an area which contains the values identified in the criteria contained in section 2.3: Introduction..</u></p>
3.17.8	<p><u>In addition to matters required to be included in a resource consent by the Resource Management Act 1991, applications under Rules 3.17.6 and 3.17.7 above shall include:</u></p> <p>(A) <u>An assessment of the following:</u></p> <p>(a) ...</p> <p>(b) <u>Any effect on sites of:</u></p> <p>(i) <u>heritage and/or archaeological significance, and cultural importance to iwi listed in Appendix II;</u></p>	<p><u>In addition to matters required to be included in a resource consent by the Resource Management Act 1991, applications under Rules 3.17.6 and 3.17.7 above shall include:</u></p> <p>(A) <u>An assessment of the following:</u></p> <p>(a) ...</p> <p>(b) <u>Any effect on sites of:</u></p> <p>(i) <u>heritage and/or archaeological significance, and cultural importance</u></p>

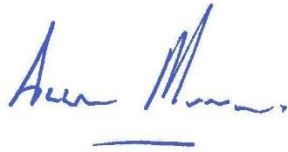
	(ii) outstanding natural features and landscapes and/or significant indigenous biodiversity <u>shown on the District Planning Maps.</u>	to iwi listed in <u>Appendix II</u> ; (ii) outstanding natural features and landscapes and/or <u>significant</u> indigenous biodiversity <u>shown on the District Planning Maps.</u>
Agriculture	Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops including, but not limited to: (A). Factory <u>Intensive</u> farming of poultry, pigs and other species, and feedlots (B). Horticulture, hydroponics, seed production, viticulture and forestry (C). Bee keeping (D). The keeping and/or training of horses together with associated activities, including shelter planting, amenity plantings, land disturbance, residences , storage buildings, <u>the storage and use of fertiliser</u> and disposal of waste produced on the site.	Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops, including, but not limited to: (a) Factory farming of poultry, pigs and other species, and feedlots (b) Horticulture, hydroponics, seed production, viticulture and forestry (c) Bee keeping (d) The keeping and/or training of horses Together with associated activities, including shelter planting, amenity plantings, land disturbance, residences, storage buildings, and disposal of waste produced on the site.

b) Any other relief to like effect, including consequential amendments that the Court considers fit;

c) Costs.

9. I attach the following documents to this notice:

- a) a copy of my submission (Annexure A – Relevant Parts of the Director-General’s Submission).
- b) a copy of the relevant parts of the decision (Annexure B – The Relevant Decision of Invercargill City Council).
- c) a list of names and addresses of persons to be served with a copy of this notice (Annexure C – Parties served with this notice)



Signature of **Allan Munn**, *Director Operations – Southern South Island Region*,
*pursuant to delegated authority from the Director-General of Conservation*³⁰

Dated 8 December 2016

Address for service of appellant:

Director General of Conservation

Planning Shared Service

Department of Conservation

Private Bag 4715

Christchurch 8011

Contact persons

Nardia Yozin, RMA Planner – Planning Shared Services

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Email: nyozin@doc.govt.nz

Pene Williams, Senior Solicitor – Legal Services

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How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

³⁰ A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18 - 32 Manners Street, Wellington 6011
SAR-04-86-08 - pICCDP - D-G Notice of Appeal - Signed

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see form 38*).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant application (*or* submission) and (*or or*) the relevant decision (*or* part of the decision). These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Annexure A – Relevant Parts of the Director-General’s Submission and Further Submission

Annexure B – The Relevant Decisions of Invercargill City Council

Annexure C – Parties Served with this Notice

Schedule 1

The specific provisions of the proposed plan that my submission relates to are:

1. Biodiversity

My submission is that:

The Director General of Conservation supports in part the introduction to the Biodiversity chapter of the proposed plan.

The introduction provides criteria that have been used to identify areas of significant indigenous biodiversity. The identification of areas of significant indigenous biodiversity and the avoidance of adverse effects is necessary to give effect to Part 2 of the RMA. To enable the correct identification of significant areas, robust and well tested criteria must be used. It is considered that the criteria detailed in this section is not fit for purpose.

I seek the following decision from Invercargill City Council:

Replace the current criteria with the following:

Representativeness

1. Indigenous vegetation or habitat of indigenous fauna that is representative, typical or characteristic of the natural diversity of the relevant ecological district.
2. Indigenous vegetation or habitat of indigenous fauna that is a relatively large example of its type within the relevant ecological district.
3. Indigenous vegetation or habitat of indigenous fauna that is degraded but retains key natural ecosystem functions (for example hydrology or soil formation processes).

Rarity/Distinctiveness

4. Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent in the Region or relevant land environment ecological district or freshwater environment.
5. Indigenous vegetation or habitat of indigenous fauna that supports an indigenous species that is threatened, at risk, or uncommon, nationally or within the relevant ecological district.
6. The site contains indigenous vegetation or an indigenous species at its distribution limit within Southland Region or nationally.
7. Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combinations of factors.

Diversity and Pattern

8. Indigenous vegetation or habitat of indigenous fauna that contains a high diversity of indigenous ecosystem or habitat types, indigenous species, or genotypes, or has changes in species composition reflecting the existence of diverse natural features or ecological gradients.

Naturalness

9. Indigenous vegetation that is in a relatively intact state for the relevant ecological district i.e. has relatively little human modification.

Ecological Context

10. Vegetation or habitat of indigenous fauna that provides or contributes to an important ecological linkage or network, or provides an important buffering function.

11. A naturally occurring wetland.

12. Indigenous vegetation or habitat of indigenous fauna that provides important habitat (including refuges from predation, or key habitat for feeding, breeding, or resting) for indigenous species, either seasonally or all year

13. Contribution to ecosystem services

14. Contribution to cultural values

Reword the following statement as areas of indigenous biodiversity will either be significant or not and there should be no ranking of importance within significance.

The ~~most~~ important areas of ~~significant~~ indigenous biodiversity within the district include the Otatara Peninsula containing nationally significant totara-matai remnant forest on an ancient sand dune system; Omaui containing rare and threatened coastal turf communities; and Bluff Hill containing nationally significant podocarp forest.

1.1 Objectives

1.1.1 Objective 1

My submission is that:

The Director General of Conservation supports the Objective 1, as it is consistent with Part 2 of the RMA and the Regional Policy Statement for Southland.

I seek the following decision from Invercargill City Council:

Retain Objective 1 in its current form.

1.1.2 Objective 2

My submission is that:

The Director General of Conservation supports Objective 2, as it gives recognition to the importance of section 6a of the RMA.

I seek the following decision from Invercargill City Council:

Retain Objective 2 in its current form.

1.2 Policies

1.2.1 Policy 1

My submission is that:

The Policy proposes to identify areas of significant indigenous biodiversity and to delineate these on the District Planning Maps. This has been done in the proposed plan as notified, although it is apparent that not all areas that are considered to contain significant indigenous biodiversity values have been included in the planning maps.

The Rules in the proposed plan pertaining to biodiversity, only apply to areas of significant indigenous biodiversity identified on the planning maps. There will need to be a significant amount of certainty that the mapping exercise that has been carried out is comprehensive and accurate. Areas that are not covered currently will not have the required protection under the proposed plan. The proposed plan also needs to allow for areas of regeneration and restoration planting that occur over time outside the mapped areas, and which develop significant indigenous biodiversity values over time.

To allow for these situations the proposed Plan should provide a mechanism for protection of areas outside the mapped areas that contain or develop indigenous biodiversity values over time.

I seek the following decision from Invercargill City Council:

Retain the policy and amend as follows:

To delineate on the District Planning Maps areas of significant indigenous biodiversity using the criteria for identifying these areas detailed in this plan.

1.2.2 Policy 2

My submission is that:

The Director General of Conservation supports the Policy 2, as it gives effect to Part 2 of the RMA and the Regional Policy Statement for Southland.

I seek the following decision from Invercargill City Council:

Retain Policy 2 in its current form.

1.2.3 Policy 4

My submission is that:

The Director General of Conservation supports the Policy 4, as it is important that the integrity of areas of significant indigenous biodiversity is maintained by using appropriate locally sourced plant stock.

I seek the following decision from Invercargill City Council:

Retain Policy 4 with no amendments.

1.2.4 Methods of Implementation 2.3.4

My Submission is that:

The Director General supports the Methods of Implementation. These methods will all assist the Council in achieving its responsibilities under sections 6 and 31 of the RMA.

I seek the following decision from Invercargill City Council:

Retain the Methods of Implementation 2.3.4 as notified.

1.3 Rules

My submission is that:

The Director General of Conservation supports in part the rules regarding significant indigenous biodiversity. It is of concern that the rules in the proposed plan only apply to those areas of significant indigenous biodiversity that have been mapped currently. It is apparent that some areas that contain significant indigenous biodiversity values have not been included in the planning maps and it would be preferred that they were so that the appropriate protection be provided to those areas.

The plan does not provide for areas that over the life time of the plan, may develop as areas containing significant indigenous biodiversity

values by either natural regeneration around the fringes of mapped areas or in isolated pockets, or as a result of restorative planting projects. These areas will not be given the required protection under these rules unless there is an opportunity to include these areas in the planning maps.

I seek the following decision from Invercargill City Council:

Amend the wording under the Biodiversity heading as follows, or wording to that effect, to provide protection to areas of significant indigenous biodiversity that are not included in the planning maps currently:

This rule applies to areas of significant indigenous biodiversity identified in the planning maps, and to areas identified in future studies and through resource consent processes.

1.3.1 Rule 3.1.1

My submission is that:

The Director General of Conservation supports the retention of the permitted activity Rule as notified. It is recognised that some trimming of indigenous vegetation is required where it occurs adjacent existing infrastructure and utilities, and for the purpose of clearing access ways to enable movement of vehicles including emergency vehicles

I seek the following decision from Invercargill City Council:

Retain Rule 3.1.1 in its current form.

1.3.2 Rule 3.1.2

The Director General of Conservation opposes the discretionary status of this Rule. Instead these activities should be covered by the subsequent Rule 3.1.3 where the removal or alteration to indigenous vegetation is covered.

The term 'access way' referred to in this Rule is not defined in the proposed Plan. Therefore the scope of what an access way might include is open to interpretation. For example an access way may include a private road or farm track across private land. The clearance or alteration of indigenous vegetation should be subject to the same test regardless of the type of associated activity.

I seek the following decision from Invercargill City Council:

Delete Rule 3.1.2.

1.3.3 Rule 3.1.3

My submission is that:

The Director General of Conservation supports the non-complying activity status of the activities detailed in Rule 3.1.3. Clause (B) of this Rule requires buildings or structures with a footprint greater than 10 square metres in area to gain consent as a non-complying activity. It is questionable whether this clause is necessary as it is likely that any associated removal of vegetation or earthworks which are covered by this rule also that will have the effect on indigenous biodiversity, but for completeness this should be retained.

I seek the following decision from Invercargill City Council:

Retain Rule 3.1.3 in its current form.

1.3.4 Rules 3.1.4 and 3.1.5

My submission is that:

The Director General of Conservation supports the inclusion of the matters to be considered as part of resource consent applications. This is a comprehensive list and this assessment combined with the ecological assessment requirement under 3.1.5 will provide adequate consideration to the adverse effects of land use activities on indigenous biodiversity.

I seek the following decision from Invercargill City Council:

Retain Rules 3.1.4 and 3.1.5 in their current form.

2. Coastal Environment

2.1 Objectives

2.1.1 Objective 1

My submission is that:

The Director General of Conservation supports the Objective 1, as it gives effect to section 6(a) of the RMA, is consistent with Policy 13(1) of NZCPS 2010, and Policy COAST.7 the proposed Regional Policy Statement for Southland.

I seek the following decision from Invercargill City Council:

Retain Objective 1 in its current form.

2.1.2 Objective 2

My submission is that:

The Director General of Conservation supports the Objective 2, as it gives effect to Policy 6(1)(e) and 6(2)(c) of NZCPS 2010.

I seek the following decision from Invercargill City Council:

Retain Objective 2 in its current form.

2.1.3 Objective 3

My submission is that:

The Director General of Conservation supports the Objective 3, as it gives effect to Policy 6(1)(e) and 6(2)(c), and Policy 9 of NZCPS 2010.

I seek the following decision from Invercargill City Council:

Retain Objective 3 in its current form.

2.2 Policies

2.2.1 Policy 1

My submission is that:

The Director General of Conservation supports Policy 1 in part, as there may be areas of the coastal environment that have not been mapped currently in the proposed Plan. The plan should also acknowledge that there may be some places beyond the line shown and that these places may be identified in case by case assessments, in which case the objectives and policies on the NZCPS 2010 will be relevant.

I seek the following decision from Invercargill City Council:

I seek that the policy be amended to allow for determination of the coastal environment beyond that already mapped, or to allow for case by case assessments as part of consent processes.

2.2.2 Policy 2

My submission is that:

The Director General of Conservation supports Policy 2 in part, but it is noted that this policy identifies Bluff and Omaui as the appropriate locations for subdivision, use and development in the coastal

environment. This is not consistent with Objective 4, which only refers to Bluff and Omaui being appropriate locations for residential development. As the objective is focused on residential development only, then the policy as worded considers all potential forms of land use and development in the coastal environment.

I seek the following decision from Invercargill City Council:

Policy 2 to be amended as follows:

To identify Bluff and Omaui as the appropriate locations for residential development ~~subdivision, use and development~~ in the coastal environment and to give priority to preservation of the natural character of the coastal environment elsewhere.

2.2.3 Policy 3

My submission is that:

Policy 13(1)(c) NZCPS requires the Council to assess the natural character of the coastal environment of the district, by “mapping or otherwise identifying at least areas of high natural character” and Policy 13(1)(d) NZCPS also requires councils to ensure Plans identify areas where preserving natural character requires objectives, policies and rules and include those provisions. Currently the proposed plan does not identify areas of high natural character, and therefore does not give effect to Policy 13 of NZCPS.

Policy 3 provides assessment criteria against which proposals for development within the coastal environment will be considered in terms of effect on natural character, these criteria should relate to those matters listed in Policy 13(2) of NZCPS. Therefore this Policy defers the determination of the natural character of the coastal environment to be part of a consent process. There should at least be an undertaking in this Policy for the Council to carry out a natural character assessment within a specified time period.

I note there is a natural character study of the coastal environment appended to the Regional Coastal Plan for Southland. This study does identify areas within the coastal environment of Invercargill City that are of high natural character. This is not referenced in the proposed Plan but possibly could be to satisfy the requirements of the NZCPS.

I seek the following decision from Invercargill City Council:

For the proposed plan to identify within the Plan, areas of at least, high natural character of the coastal environment, or amend the wording of

Policy 3 to commit to identifying these areas in the proposed Plan by a specified timeframe.

2.2.4 Policy 5

My submission is that:

The Director General of Conservation supports Policy 5 in part, as the policy as written gives priority to certain land uses over other coastal uses. Context is important in determining functional need and the appropriateness of providing for activities in a particular location. For example, what is a high functional need in one place will not necessarily be the same for all coastal locations.

I seek the following decision from Invercargill City Council:

Reword Policy 5 as follows so that the policy is consistent with Policy 6(2)(c) of NZCPS:

*To ~~give priority to~~ **recognise the functional need for infrastructure, port and renewable energy projects in determining appropriate locations and/or management in the** ~~that have a functional need of a coastal environment location,~~ and make provision for other facilities and activities that have located in the coastal environment for historic reasons.*

3. Energy

3.1 My submission is that:

The Director General of Conservation supports the objectives policies and methods pertaining to Energy as they promote the management of adverse effects on the environment resulting from these activities and give effect to Part 2 of the RMA.

I seek the following decision from Invercargill City Council:

Retain the objectives, policies and methods covering energy, with no amendments.

3.2 Rules

3.2.1 Rule 3.6.1

My submission is that:

The Director General of Conservation strongly supports the permitted activity rule regarding small scale renewable energy projects, as the rule

limits those facilities being located within areas of significant indigenous biodiversity, identified sites of heritage value, and within an identified outstanding natural feature or landscape.

I seek the following decision from Invercargill City Council:

Retain Rule 3.6.1 as written with no amendments.

3.2.2 Rule 3.6.5

My submission is that:

The Director General of Conservation strongly supports the matters to be considered in resource consent applications under rules 3.6.3 and 3.6.4, as these will give effect to part 2 of the RMA.

I seek the following decision from Invercargill City Council:

Retain the matters detail in Rule 3.6.5 as written with no amendments.

4. Hazardous Substances

Appendix VII

My submission is that:

The base class thresholds for ecotoxic hazardous substances such as 1080 (used primarily for possum control operations) and brodifacoum (used to eradicate rats) in Appendix VII do not reflect the quantity or toxicity of the hazardous substances to be stored. In the case of 1080 there may be a large quantity of bait. However, the bait has only 0.15% 1080. Application rate is 2-3kg of bait per hectare. As a result, an operation covering say 20,000 hectares requires about 120 tonnes of bait. This 120 tonnes of bait contains approximately 180 kg of 1080.

The Rotorua District Plan recognises the HASNO classification including ecotoxicity and Hazard Rating. As a consequence the quantity of bait able to be stored in particular in industrial areas is considerably larger than is proposed by Southland District. Such an approach better reflects the risk to the environment.

I seek the following decision from Invercargill City Council:

Review Appendix VII to reflect the toxicity and quantity of the active ingredients such as 1080, brodifacoum, pindone and diphacinone found in baits used in pest animal control operations.

5. Heritage

4.1 Objectives

4.1.1 Objective 1

My submission is that:

The Director-General supports this objective. Objective 1 recognises that there is significant heritage within the Invercargill City district and protecting historic buildings, places and sites is necessary to ensure these values are maintained. This Objective is consistent with Council's responsibilities in relation to section 6 of the RMA and is consistent with Policy 17 of the NZCPS.

I seek the following decision from Invercargill City Council:

Retain Objective 1 in its current form.

4.2 Policies

4.2.1 Policy 3

My submission is that:

The Director-General supports this policy as it seeks to avoid adverse effects on historic buildings, places and sites resulting from subdivision, use and development.

I seek the following decision from Invercargill City Council:

Retain this policy and explanation with no amendments.

4.2.2 Policy 7

My submission is that:

The Director-General supports this policy as it recognises that there are significant historic heritage values within the Invercargill City District and protecting archaeological and cultural sites is necessary to ensure these values are retained.

I seek the following decision from Invercargill City Council:

Retain the policy and explanation in its current form with no amendments.

4.3 Methods

My submission is that:

The Director-General supports the methods of implementation in the plan regarding heritage. The Council proposes to maintain and update a detailed list of heritage sites and append this to the plan. This is to involve consultation and collaboration with key stakeholders to keep this information as relevant and up to date as possible.

I seek the following decision from Invercargill City Council:

Retain the methods regarding heritage in their current form with no amendments.

4.4 Rules

4.4.1 Rule 3.8.6

My submission is that:

The Director-General strongly supports the resource consent requirement as a discretionary activity for any land disturbance occurring within 100 metres of an identified archaeological site and the requirements through the process to consult with key identified stakeholders, and the consideration of alternatives.

I seek the following decision from Invercargill City Council:

Retain Rule 3.8.6 in its current form with no amendments.

6. Natural Features, Landscapes and Townscapes

5.1 Objectives

My submission is that:

The Director-General supports this objective as it is consistent with Part 2 of the Resource Management Act 1991. This objective also recognises that Invercargill City has a number of outstanding landscapes and natural features some of which are nationally or internationally significant.

I seek the following decision from Invercargill City Council:

Retain Objectives 1 to 3 with no amendments.

5.2 Policies

My submission is that:

The Director-General supports policies 1 to 7 of the proposed Plan, as the areas of outstanding landscape and natural features in the policies and delineated in the planning maps are comprehensive and protection of these areas from activities is consistent with Part 2 of the RMA.

I seek the following decision from Invercargill City Council:

Retain Policies 1 to 7 with no amendments.

5.3 Rules

My submission is that:

The Director-General supports the rules pertaining to Natural Features, Landscapes and Townscapes in part. The permitted standards for land use activities in 3.10.1 (A) do not apply to agriculture. Agriculture as defined in the proposed Plan is very broad and includes a number of ancillary activities such as land disturbance, storage buildings, residences, as well as including activities such as forestry and factory farming. The areas of outstanding natural features and landscape identified in the proposed plan are typically within the rural areas of Invercargill City, and therefore activities related to agriculture will commonly occur within these areas. These activities depending on scale have potential to impact negatively on outstanding natural features and landscapes, and should be subject to the standards contained within Rule 3.10.1, and requirement for resource consent for those activities considered.

It is also important to note that if consent is not required for activities within areas of outstanding natural features and landscape that come under the definition of agriculture, then there will also be no requirement to consider the effect of these activities on the natural character of the coastal environment. This is as there are no specific rules regarding the coastal environment, but an assessment of the effect of an activity in the natural character of the coast is required when resource consent is required for an activity located in the coastal environment.

I seek the following decision from Invercargill City Council:

That agriculture is not exempt from the performance standards in Rule 3.10.1 and that the standards are to be applied to all land uses. Alternatively the definition of agriculture should be reworded to narrow the definition to activities typically understood as farming activities but not to include ancillary buildings or related earthworks.

7. Subdivision

My submission is that:

The Director-General generally supports this section of the plan as it is consistent with Part 2 of the Resource Management Act 1991. This section also recognises the very high values of some areas of Invercargill City by making subdivision a non-complying activity in areas identified in the proposed Plan as outstanding natural features and landscapes, and areas of significant indigenous biodiversity, and also if applicable the effect of subdivision on natural character of the coastal environment is considered.

This section is also consistent with NZCPS 2010 in retaining and enhancing public access to and along the coast by requirement for esplanade strips and placing restriction on subdivision areas identified as being hazard prone.

I seek the following decision from Invercargill City Council:

Retain the Objectives, Policies and Rules regarding subdivision in their current form as proposed.

8. Natural Hazards

My submission is that:

The Director-General supports section 2.11 Natural Hazards as with regard to the coastal environment it is consistent with Part 2 and s106 of the Resource Management Act 1991 and gives effect to New Zealand Coastal Policy Statement 2010.

I seek the following decisions from Invercargill City Council:

Retain the objectives, policies, methods, and rules covering Natural Hazards with no amendments.

9. Soils, Minerals and Earthworks

My submission is that:

The Director-General generally supports this section of the plan as it is consistent with Part 2 of the Resource Management Act 1991. This is as land use activities that are permitted or require consent under the soils, minerals and earthworks rules are also required to be considered against the rules covering biodiversity, heritage and natural features and landscapes.

I seek the following decisions from Invercargill City Council:

Retain the objectives, policies, methods, and rules covering Soils, Minerals, and Earthworks with no amendments.

10. Definitions

9.1 Agriculture

My submission is that:

Agriculture as defined in the plan has a very detailed meaning, and includes a list of activities that may be associated with agricultural land use but could come under other sections of this plan as separate land uses. It is suggested that the definition of agriculture be reworded to narrow the scope of what is meant by agriculture for the purposes of this Plan.

I seek the following decisions from Invercargill City Council:

Reword the definition of agriculture as follows:

Means the use of land or buildings for the rearing, breeding and keeping of animals and/or the growing and harvesting of crops. including, but not limited to
(A) ~~Factory farming of poultry, pigs and other species, and feedlots~~
(B) ~~Horticulture, hydroponics, seed production, viticulture and forestry~~
(C) ~~Bee keeping~~
(D) ~~The keeping and/or training of horses~~
Together with associated activities, including shelter planting, amenity plantings, land disturbance, residences, storage buildings, and disposal of waste produced on the site.

9.2 Wetlands

My submission is that:

There is no definition of wetlands or a wetland in the proposed Plan, although the biodiversity section of the proposed Plan contains an objective, policy, and rule that aim to protect the natural character of wetlands.

I seek the following decisions from Invercargill City Council:

Include the following definition of wetland in Section 4 of the proposed Plan;

Means naturally occurring permanently or intermittently wet areas, shallow water and land water margins that support plants and animals that are adapted to wet conditions. This definition excludes: wet pasture where water temporarily ponds after rain or pasture containing small patches of rushes (juncus species).

Submission #	Submitter	Address 1	Address 2	Address 3	Address 4	Address 5	Method of Service
2	Bluff Community Board	c/- PO Box 9	BLUFF				POST
3	Department of Corrections	PO Box 1206	WELLINGTON 6104			Attn: Yvonne Legarth	Yvonne.legarth@corrections.govt.nz
5	Alliance Group Ltd	c/- Mitchell Partnerships Ltd	PO Box 489	DUNEDIN			john.kyle@mitchellpartnerships.co.nz
7	Southland District Health Board	C/- Opus International Consultants	Private Bag 1913	DUNEDIN			shane.roberts@opus.co.nz
13	Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd (The Oil Companies)	c/-Burton Planning Consultants Ltd	PO Box 33-817	Takapuna 0740	AUCKLAND	Attention: Karen Blair	kblair@burtonconsultants.co.nz
14	New Zealand Racing Board	c/- Speer Speer & Associates Ltd	PO Box 67063	Mt Eden	AUCKLAND 1349	Attention: Suzanne M. Speer	Speersnz@woosh.co.nz
15	Ballance Agri-Nutrients Ltd	Private Bag 12 503	Tauranga Mail Centre	TAURANGA 3143	Attention: Mr Greg Delaney		greg.delaney@ballance.co.nz
	Ballance Agri-Nutrients Ltd	C/- Ryder Consultancy	89 Grey Street	PO Box 13009	Tauranga 3141		enquiries@ryderconsulting.co.nz k.edlin@ryderconsulting.co.nz b.malcon@ryderconsulting.co.nz
18	Environment Southland	Private Bag 90116	INVERCARGILL 9840		Attention: Dallas Bradley/Gavin Gilder		service@es.govt.nz gavin.gilder@es.govt.nz
23	Airways Corporation of New Zealand Ltd	C/- Opus International Consultants	Private Bag 1913	DUNEDIN		Attn: Julie McMinn	julie.mcminn@opus.co.nz
24	South Port New Zealand Limited	Mitchell Partnerships Limited	P O Box 489	DUNEDIN		Attn: John Kyle	john.kyle@mitchellpartnerships.co.nz Kirsty.Osullivan@mitchellpartnerships.co.nz
26	New Zealand Defence Force	Environmental Manager Defence Property Group	Private Bag 902	Upper Hutt 5140	Attn: Rob Owen		Robert.owen@nzdf.mil.nz
34	Silver Ferns Limited	P O Box 30	ASHBURTON 7740			Attn: Alison Johnstone	Alison.johnstone@silverfernfarms.co.nz
48	Southland Branch of the Forest and Bird Society	P O Box 1155	INVERCARGILL			Attn: Craig Carson	POST
52	New Zealand Police	C/- Incite (ChCh) Ltd	P O Box 25289	CHRISTCHURCH		Attn: Fiona Small	fiona@incite.co.nz
53	New Zealand Transport Agency	P O Box 5245	Moray Place	DUNEDIN		Attn: Tony MacColl	Tony.maccoll@nzta.govt.nz
54	Otatara Landcare Group	173 Grant Road	Otatara	R D 9		INVERCARGILL 9879	POST
56	Jenny Campbell	P O Box 71	MOSSBURN 9747				jennycam@xtra.co.nz
58	Don Moir	172 Moana Street	INVERCARGILL				don@moir.co.nz

Submission #	Submitter	Address 1	Address 2	Address 3	Address 4	Address 5	Method of Service
			9810				
65	Invercargill City Council	Environmental and Planning Services	Private Bag 90104	INVERCARGILL		Attn: Judith Christie	judy.christie@icc.govt.nz
67	Invercargill City Council	Drainage Manager	Private Bag 90104	INVERCARGILL		Attn: Malcolm Loan	malcolm.loan@icc.govt.nz
69	Invercargill City Council	Roading Manager	Private Bag 90104	INVERCARGILL		Attn: Russell Pearson	russell.pearson@icc.govt.nz
71	New Zealand Aluminium Smelters Ltd	C/- Chapman Tripp	P O Box 993	WELLINGTON 6140		Attn: Ben Williams	ben.williams@chapmantripp.com Hadleigh.pedler@chapmantripp.com
74	Bunnings Limited	C/- Barker and Associates Limited	P O Box 1986	Shortland Street,	AUCKLAND 1140	Attn: Matt Norwell and Kay Panthernight	Kaypk@barker.co.nz mattn@barker.co.nz
75	McDonald's Restaurants (New Zealand) Limited	C/- Barker and Associates Limited	P O Box 1986	Shortland Street,	AUCKLAND 1140	Attn: Hannah Whittle and Matt Norwell	Hannahw@barker.co.nz mattn@barker.co.nz
76	Placer Investments Limited	P O Box 1386	DUNEDIN 9054			Attn: Warwick Fortune	wbfortune@xtra.co.nz
77	Te Runaka o Waihopai and Te Runaka o Awarua	C/- Te Ao Marama	P O Box 7078	INVERCARGILL		Attn: Dean Whaanga	dean@tami.maori.nz
78	Ministry of Education	c/- Opus International Consultants Ltd	Private Bag 1913	DUNEDIN 9054		Attn: Julie McMinn	julie.mcminn@opus.co.nz
79	KiwiRail Holdings Limited	P O Box 593	WELLINGTON 6140			Attn: Rebecca Beals	Rebecca.beals@kiwirail.co.nz
81	Progressive Enterprises Limited	C/- Zomac Planning Solutions Ltd	P O Box 103	Whangaparoa	AUCKLAND 0943		mike@zomac.co.nz
87	Transpower New Zealand Limited	C/- Boffa Miskell Limited	P O Box 110	CHRISTCHURCH 8140		Attn: Mike Hurley	Environment.Policy@transpower.co.nz
88	Federated Farmers of New Zealand	P O Box 5242	DUNEDIN 9058			Attn: David Cooper	DCooper@fedfarm.org.nz Trobb@fedfarm.org.nz
90	H W Richardson Group Limited	C/- Mitchell Partnerships	P O Box 489	DUNEDIN 9054		Attn: Joanne Dowd	Joanne.dowd@mitchellpartnerships.co.nz
91	PowerNet Limited	C/- Mitchell Partnerships	P O Box 489	DUNEDIN 9054		Attn: Joanne Dowd	Joanne.dowd@mitchellpartnerships.co.nz
100	Vibrant Invercargill	36 Don Street	INVERCARGILL			Attn: Joan Scarlett	vibrant@ihug.co.nz
101	New Zealand Fire Service Commission	C/- Beca Limited	P O Box 3942	WELLINGTON 6140		Attn: Alexandra Strawbridge	Alexandra.stawbridge@beca.com
102	Chorus New Zealand Limited	P O Box 632	WELLINGTON			Attn: Mary Barton	mary.barton@chorus.co.nz
103	Invercargill City Airport Limited	C/- Mitchell Partnerships	P O Box 489	DUNEDIN 9054		Attn: John Kyle	John.kyle@mitchellpartnerships.co.nz Kirsty.osullivan@mitchellpartnerships.co.nz
104	Telecom New Zealand Limited	P O Box 632	WELLINGTON			Attn: Mary Barton	mary.barton@chorus.co.nz

Submission #	Submitter	Address 1	Address 2	Address 3	Address 4	Address 5	Method of Service
105	Invercargill City Council	Environmental Health Service Manager	Private Bag 90104	INVERCARGILL		Attn: John Youngson	John.youngson@icc.govt.nz
116	Kylie Fowler	322 Gore Street	BLUFF 9814				c.teau@woosh.co.nz
117 (late)	Southern District Health Board	C/- Public Health South	P O Box 1601	INVERCARGILL 9840		Attn: Dr Leanne Liggett	leanne.liggett@southerndhb.govt.nz