

Level 1
2-8 Northcroft St
Takapuna, Auckland 0622

PO Box 33 817
Takapuna, Auckland 0740
New Zealand

Phone 09 917 4300
Fax 09 917 4311

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File 13/119

Writer's DDI: (09) 917-4305

Email: kblair@burtonconsultants.co.nz

23 November 2016

Environmental and Planning Services Directorate
Invercargill City Council
Private Bag 90104
INVERCARGILL

Dear Sir / Madam,

RE: NOTICE OF APPEAL ON THE PROPOSED INVERCARGILL CITY DISTRICT PLAN

I enclose a copy of an appeal by the Oil Companies (BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited) that has been filed in the Environment Court in relation to the above matter.

Our advice to the Court, and to potential parties to the appeal, is that the Appellants are agreeable to negotiation and/or mediation of the appeal points raised.

In the first instance, please contact Karen Blair ((09) 917 4305), at this office.

Yours faithfully,

BURTON PLANNING CONSULTANTS LIMITED



Karen Blair
Director / Principal Planner

BEFORE THE ENVIRONMENT COURT

IN THE MATTER

of an appeal pursuant to Clause 14 of the
First Schedule to the Resource
Management Act 1991 (*the Act*)

AND

IN THE MATTER

of the decisions of the Invercargill City
Council on the Proposed Invercargill City
District Plan and Variations 1-8

BETWEEN

**BP OIL NEW ZEALAND LIMITED, MOBIL
OIL NEW ZEALAND LIMITED AND Z
ENERGY LIMITED (*the Oil Companies*)**
Appellant

AND

INVERCARGILL CITY COUNCIL
Respondent

**NOTICE OF APPEAL PURSUANT TO CLAUSE 14 OF THE FIRST SCHEDULE TO THE RESOURCE
MANAGEMENT ACT 1991**

**To: The Registrar, Environment Court
District Court Building
Level 1
282 Durham Street
Christchurch 8013
New Zealand**

- 1. The Appellants are BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (*The Oil Companies*)**

2. **The Respondent is the Invercargill City Council (*the Council*).**
3. The Oil Companies appeal against part of the decision of the Council on the Proposed Invercargill City District Plan and Variations 1-8 (*the PDP*). The Oil Companies made submissions to the Council in relation to the PDP and to Variation 2.
4. The Oil Companies core business relates to the operation and management of their individual service station networks, commercial refuelling facilities and bulk storage (Terminal) facilities at ports and airports. The Oil Companies also supply petroleum products to individually owned businesses. Hydrocarbons are the principal substance managed by the Oil Companies.
5. The Oil Companies are directly affected by an effect of the subject of the appeal that:
 - (a) Adversely affects the environment; and
 - (b) Does not relate to trade competition or the effects of trade competition.
6. The Council notified the PDP and Variations 1-8 and made decisions on the submissions and further submissions of the Oil Companies in relation to the PDP. The Oil Companies received notice of the decisions on 1 November 2016.
7. **THE PARTS OF THE DECISION BEING APPEALED**
 - 7.1 The parts of the decision that the Oil Companies appeal relates to are:
 - (a) Hazardous Substances – Provision for LPG and Provision for Diesel and Petroleum at Service Stations
 - (b) Earthworks – Permit earthworks associated with the installation and removal of an underground petroleum storage system
 - (c) Policy Direction in Respect of Reverse Sensitivity Effects in the Seaport Zone - Managing Effects of Hazardous Substances – New Policy
8. **GENERAL REASONS**
 - 8.1 The general reasons for the appeal are that the decision:
 - (a) Does not promote the sustainable management of natural and physical resources and is contrary to Part 2 and other provisions of the Act.
 - (b) Is not the most efficient or effective way of regulating the potential adverse effects associated with earthworks, hazardous facilities or reverse sensitivity effects in the Seaport Zone

- (c) Does not represent the most appropriate means of exercising the Council's statutory functions, having regard to the efficiency and effectiveness of other available options under section 32 of the Act.
- (d) Will potentially impose unnecessary and unjustified costs.

9. THE SPECIFIC REASONS FOR THE OIL COMPANIES APPEAL ARE AS BELOW.

10. HAZARDOUS SUBSTANCES – PROVISION FOR LPG AND PROVISION FOR UNDERGROUND STORAGE OF DIESEL AND PETROLEUM AT SERVICE STATIONS

The Oil Companies Submission 13.7

The Oil Companies' Further Submissions (24.16 and 24.18) on New Zealand Aluminium Smelter Limited's Original Submission Points 71.16 and 71.51/52

- 10.1 Rule 3.7.1(G) as proposed permitted the following specific activities:
The storage of sub-class 3.1A-D liquid petroleum fuels (as listed in Schedules 1 to 6 of the Hazardous Substances (Classification) Regulations 2001) in underground storage.
- 10.2 The Oil Companies supported 3.7.1(G), but also sought that Appendix VII be amended to make adequate provision for above ground storage of LPG, including for multiple vessel storage tanks recognising the trend to pre-filled swap bottle facilities, rather than on-site refill facilities. Accordingly, the Oil Companies sought to retain Rule 3.7.1(G) and add a further clause as follows:
"(ii) The storage of HSNO class 2.1.1A LPG in single or multiple vessel storage tanks."
- 10.1 The Oil Companies' further submissions supported submissions raising the fundamental question as to why additional district plan controls on hazardous substances are needed over and above those set out in HSNO and, if so, what the nature of those controls might be. The primary submissions sought (inter alia) the deletion of rules specifying maxima for quantities on-site of hazardous substances, including Rules 3.7.2 and 3.7.3. The Oil Companies stated that there is no explanation as to why additional controls are required in those situations or what particular risks the Council is seeking to control that are not already managed by the generic controls under HSNO.

The Council's Decision

- 10.3 Through **Decision 25/27** (page 27 of the Hazardous Substances Decisions Report) the Council has **Accepted in Part** Submission 13.7, and through **Decision 25/24** (page 24 of the Hazardous Substances Decisions Report) the Council has **Accepted in Part** Submission 71.51 (and further submission 24.18).
- 10.4 The following is to be added to the notes in Appendix VII Hazardous Substances:

11. Notwithstanding the volumes set for LPG (inc. propane-based refrigerant) in cylinders in Class 2.1.1A High hazard gases the following quantity of LPG stored in cylinders up to a maximum size of 45 kg is permitted at duly authorised services stations selling fuel and associated products:

*Seaport 1 and Smelter Zones No limit
All other Zones 450 kg*

- 10.5 Through **Decisions 25/16 and 25/29** (pages 20 and 28 of the Hazardous Substances Decisions Report) the Council has **Rejected** Submissions 71.16 and 71.52 (and further submissions 24.16 and 24.16), on the basis that the District Plan provisions are not duplicating the intent of provisions of the HSNO Act and therefore no changes were required.

Reasons for Appeal

- 10.6 The Council's decision in relation to LPG states that:
Arising from the submission of the Oil Companies it is appropriate to enable greater storage of LPG at service stations, as part of "swap and go" services.
- 10.7 The Oil Companies support the intent of the decision, but not the execution.
- 10.8 In terms of the relief granted by the Council, it is not entirely clear what is meant by the reference to a *"duly authorised service station"*. Some clarification is provided for the interpretation of various terms in the Notes to the Appendix (eg: for "Approved" and "Certified") but this does not extend to "Duly Authorised". Furthermore, in terms of certainty and vires, it is considered that the activity should be specifically permitted (either through a permitted activity clause or entry in Appendix VII itself) rather than being 'authorised' by way of a 'note'. The other 'notes' appear to relate to matters of interpretation, rather than to thresholds or limits that define what's permitted and what is not.
- 10.9 Further, a 450kg limit is imposed. The average service station has a total of some 540kg of LPG in 9kg bottles (2x30 bottle units). It is considered to be inefficient to have a restriction at 450kg, when that would only allow 50 bottles (ie: one unit of the two would only be able to be partially filled (20 instead of 30 bottles)).
- 10.10 The Council's decision in relation to the duplication of HSNO controls is that no changes are needed because controls are not duplicated.
- 10.11 Further, the Council's decision on Submission 105.2 (ICC Environmental Health and Compliance Services, at page 20 of the Hazardous Substances Decisions Report) states that:

2. *Storage of petroleum in underground fuel storage tanks is adequately controlled by HSNO and therefore it is not considered necessary to include additional controls in the District Plan.*

10.12 The intention is to permit the storage of petroleum in underground fuel storage tanks by providing for the following threshold in Appendix VII – Hazardous Substances:

Flammable liquids (stored below-ground)

HSNO Classification: 3.1A, 3.1B, 3.1C, 3.1D

Substance: Petroleum or alcohol blend fuels

No Threshold

10.13 It is understood that the intent of the “No Threshold” entry in Appendix VII, consistent with the specification of both substances 3.1A and 3.1D, is to provide for underground petroleum *including* diesel storage. In its ordinary meaning, the term ‘petroleum’ would be broad enough to cover diesel (and jet fuel), however given that diesel is referenced separately to petroleum in relation to above ground storage of various products, there appears to be an anomaly or oversight in relation to its non-inclusion here. Amending the entry above to include a specific reference to ‘diesel’ would provide clarification and increase certainty.

Relief Sought

10.14 Redraft Note 11 as a permitted activity rule or as a threshold in Appendix VII; clarify the meaning of a “duly authorised” service station; and increase the 450kg quantity limit for LPG storage in “all other zones” to 540kg.

This could be achieved by making the following amendments, or amendments to like effect (additions in italics and underline and deletions in italics and strikethrough):

(a) Delete the following from the notes in Appendix VII Hazardous Substances:

~~*11. Notwithstanding the volumes set for LPG (inc. propane-based refrigerant) in cylinders in Class 2.1.1A High hazard gases the following quantity of LPG stored in cylinders up to a maximum size of 45 kg is permitted at duly authorised services stations selling fuel and associated products:*~~

~~*Seaport 1 and Smelter Zones No limit*~~

~~*All other Zones 450 kg*~~

(b) Add the following new clause into Rule 3.7.1 as a permitted activity (or make the equivalent changes as a line entry into Appendix VII):

The storage of HSNO class 2.1.1A LPG in single vessel storage tanks, or in multiple vessel storage cylinders up to a maximum size of 45 kg per cylinder, is permitted at service stations

selling fuel and associated products, subject to meeting all relevant requirements of HSNO 1996:

Seaport 1 and Smelter Zones No limit

All other Zones 540 kg

- 10.15 Amend the following threshold in Appendix VII – Hazardous Substances to ensure that it is clear that permitted activity status for ‘petroleum’ includes diesel.

This could be achieved by making the following amendments, or amendments to like effect (additions in italics and underline):

Flammable liquids (stored below-ground)

HSNO Classification: 3.1A, 3.1B, 3.1C, 3.1D

Substance: Petroleum, diesel or alcohol blend fuels

No Threshold

- 10.16 Make any consequential amendments as a result of the above amendments.

- 10.17 Such other relief as the Court sees fit.

11. EARTHWORKS – PERMIT EARTHWORKS ASSOCIATED WITH THE INSTALLATION AND REMOVAL OF AN UNDERGROUND PETROLEUM STORAGE SYSTEM

The Oil Companies’ Submissions (13.16)

- 10.2 The Oil Companies’ submission opposed in part Rule 3.17.2 and sought that it be amended to provide for earthworks associated with the installation and removal of an underground petroleum storage system as a permitted activity in all zones and ensure that the quantity of earth moved is not subject to additional restriction.

The Council’s Decision

- 10.3 Through **Decision 26/22** (page 20 of the Soils, Minerals and Earthworks Decisions Report) the Council has **Rejected** Submission 13.16.
- 10.4 The decision states that the soils, minerals and earthworks provisions serve a different purpose to the NESCS and therefore should apply to this activity. However, through other submissions, new exemptions to the earthworks rules have been included as follows:

Rules 3.17.2 – 13.17.8 [which are the earthworks rules] *do not apply to:*

(A) Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.

- (B) *The movement, deposition or removal of material when it is a necessary consequence of building a structure for which a building consent has been obtained on that site.*
- (C) *The movement, deposition or removal of material for the purposes of work in compliance with Council's Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure.*
- (D) *The movement, deposition or removal of material for the purpose of forming hard surfaces such as accessways and paths.*
- (E) [land cultivation]
- (F) *The construction, maintenance and upgrading of utilities as provided for by Rule 3.9 Utilities*

Furthermore, the following activities are now permitted:

(D) All other earthworks provided that the quantity of earthworks undertaken in a 12 month period shall not exceed:

- (a) 50m³ per site up to 1000m², plus 50m³ for every additional 1,000m² or part thereof, thereafter, in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4, 5 and 6, and Otatara Zones.*
- (b) 2,000m³ per site in the Rural Zone.*
- (c) 1,000m³ per site in all other zones.*

For reference: the definition of earthworks is as follows:

Earthworks: Means the disturbance of land surfaces by the removal or deposition of material, excavation, filling or the formation of roads, banks, tracks. "Earthworks" includes preparing the ground for building foundations or service trenches. ~~#~~ "Earthworks" does not include the cultivation of farm land or the digging of holes for the erection of posts, planting of trees or other vegetation.

Reason for Appeal

- 10.5 Removal and/or installation, including replacement, of an UPSS will generally be undertaken for a number of reasons such as the underground tank is getting old and needs replacing, the site is being upgraded, a leak is suspected or the site is being closed. The total volume of earthworks required for an UPSS removal will depend on the number of tanks being removed, the size of the tanks and the area in which the tanks are located.
- 10.6 Earthworks at the terminals and in the Industrial zones would be permitted, as would earthworks where a building consent was required (although retanking per se is unlikely to qualify unless undertaken in association with knock down and rebuild works). Where works are associated with utilities and/or where associated with resurfacing, these would also be permitted.
- 10.7 It is likely that earthworks associated with tank removal per se would not be permitted in the business or residential zones. A new service station in a business or residential zone will

likely trigger the need for consent in any case, however it is considered unreasonable to expect that the removal and/or replacement of tanks in those zones should require consent.

10.8 It is considered unnecessary to require consent for earthworks associated with replacement or removal activities on the following grounds:

- a. UPSS removals/ installations should be permitted in all zones, because these are temporary activities occurring on an infrequent basis, where the land is reinstated and the contour is restored to pre-existing contours at the end of the work (levels only minimally changed if and as necessary to ensure appropriate fall for drainage). As for infrastructure activities, no long term amenity issues arise and the effects can be appropriately controlled through compliance with the New Zealand standards for noise and adherence to an erosion and sediment control plan. It is considered to be inefficient and unnecessary to require removal and installation activities to be subject to the earthworks rules.
- b. Further, on land subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011 (NЕСS), these works are undertaken in accordance with the NESCS either as a permitted activity or with resource consent. The disturbed ground must be reinstated and an environmental assessment/investigation undertaken as part of the removal/replacement process. It is considered to be inefficient and unnecessary to require removal and replacement activities to be subject to both the earthworks and the NESCS rules. An exemption from the earthworks provisions for tank removals and installations will avoid conflict with the NESCS and the need to unnecessarily obtain resource consents for an earthworks activity that is already well regulated. It is noted that at Page 4 of the Decision of the Council, it is recorded that Mrs Shirley, the Council Planner, accepted that where earthworks are controlled through other processes, such as building consent, then there is no benefit in requiring any resource consent regardless of the scale of earthworks undertaken.

Relief Sought

10.9 Provide for earthworks associated with the installation and removal of an underground petroleum storage system as a permitted activity in all zones and ensure that the quantity of earth moved is not subject to additional restriction.

This could be achieved by making the following amendments, or amendments to like effect (additions in italics and underline):

Rules 3.17.2 – 13.17.8 [which are the earthworks rules] *do not apply to:*

- (A) *Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.*
- (B) *The movement, deposition or removal of material when it is a necessary consequence of building a structure for which a building consent has been obtained on that site.*

- (C) *The movement, deposition or removal of material for the purposes of work in compliance with Council's Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure.*
- (D) *The movement, deposition or removal of material for the purpose of forming hard surfaces such as accessways and paths.*
- (E) *[land cultivation]*
- (F) *The construction, maintenance and upgrading of utilities as provided for by Rule 3.9 Utilities*
- (G) *The movement, deposition or removal of material associated with the removal and installation of underground petroleum storage systems.*

10.10 Make any consequential amendments as a result of the above amendments.

10.11 Such other relief as the Court sees fit.

11. POLICY DIRECTION IN RESPECT OF REVERSE SENSITIVITY EFFECTS IN THE SEAPORT ZONE - MANAGING EFFECTS OF HAZARDOUS SUBSTANCES – NEW POLICY

The Oil Companies' Further Submission (FS24.12) on South Port New Zealand Limited's Original Submission Point 24.59

11.1 The Oil Companies supported a submission of South Port which sought to introduce a new policy addressing sensitive activities.

The Council's Decision

11.2 Through **Decision 22/10** (page 17 of the Seaport Decisions Report) the Council has **Accepted** Submission 24.59 (and further submission 24.12) and proposes adopting the following new policy:

Reverse sensitivity: To recognise the adverse effects that may be generated within and from the Seaport [1/2] Zone activities and:

(a) identify the effects and the area that these can impact on;

(b) provide information to owners and prospective owners on those effects;

(c) encourage owners of affected land to mitigate those effects on the occupiers of those properties; and

(d) when considering resource consents for subdivision use and development have regard to potential for reverse sensitivity effects that may impact on port related activities.

Explanation: The operational requirements of a seaport have the potential to give rise to reverse sensitivity effects with respect to other land uses in the vicinity which may seek a coastal location for other reasons, such as views of the coast and the ambience of a port town.

Reason for Appeal

- 11.3 Sensitive activities could inappropriately constrain Seaport Activities, and undermine a key physical resource which is functionally dependent on that location and essential to the City (and Region's) economic prosperity. A policy relating to reverse sensitivity effects is necessary to provide for the existing operation of and future growth of the Port facilities in a sustainable manner, and to protect it from the adverse effects arising from new sensitive activities locating within the Seaport zone. As underpins the zoning approach, there are a range of potential effects that sensitive activities could be subject to, including noise, amenity and risk. The terminal facilities are already constrained to a degree by existing sensitive activities in close proximity. The terminal facilities should be protected from sensitive activities per se, and also be specifically protected from sensitive activities that may seek to locate within the Seaport zone.
- 11.4 The new policy is essentially the same in both the Seaport 1 and 2 zones. The Policy is not considered to provide sufficiently strong policy guidance against locating sensitive activities within, and adjacent, the Seaport zone. It fails to clearly identify the policy outcome. Noise sensitive activities are non-complying in both the Seaport 1 and 2 zones, so the clarity and strength of this particular policy will be important, and it should clearly recognise that sensitive activities should not be locating within the Seaport Zone. Furthermore, in (d) for example, what outcome is intended when you "have regard to" the potential for reverse sensitivity effects to be generated, when you are simply recognising that adverse effects may be generated? The policy outcome needs to be stated.

Relief Sought

- 11.5 Amend the new reverse sensitivity policy in the Seaport 1 and 2 Zones to clearly recognise that sensitive activities should not be locating within either Seaport zone(s).

This could be achieved by making the following amendments, or amendments to like effect (additions in italics and underline):

Reverse sensitivity: To recognise the adverse effects that may be generated within and from the Seaport [1/2] Zone activities and to enable the efficient and effective operation, use and development of the Port of Bluff, including by: :

(a) identifying the effects and the area that these can impact on;

(b) provideing information to owners and prospective owners on those effects;

(c) encourageing owners of affected land to mitigate those effects on the occupiers of those properties; ~~and~~

(d) when considering resource consents for subdivision use and development have regard to potential for reverse sensitivity effects that may impact on port related activities to ensure

that Seaport Activities are protected from sensitive activities that are vulnerable to the range of adverse effects generated within and from the Seaport Zone, and

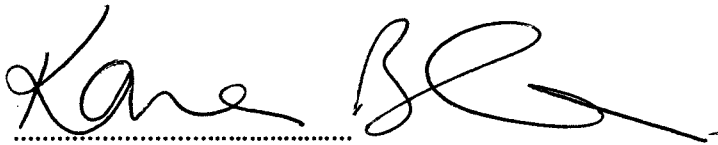
(e) preventing sensitive activities from locating within the Seaport Zone.

Explanation: The operational requirements of a seaport have the potential to give rise to reverse sensitivity effects with respect to other land uses in the vicinity which may seek a coastal location for other reasons, such as views of the coast and the ambience of a port town.

11.6 Make any consequential amendments as a result of the above amendments.

11.7 Such other relief as the Court sees fit.

Signature of person authorised to sign on behalf of the Oil Companies

A handwritten signature in black ink, appearing to read 'Karen Blair', followed by a horizontal dotted line.

Karen Blair

Burton Planning Consultants Limited

Dated at Takapuna this 23rd day of November 2016

Address for Service:

Burton Planning Consultants Limited
PO Box 33-817
Takapuna
AUCKLAND 0740
Attention: Karen Blair

Ph: (09) 917-4305

Fax: (09) 917-4311

E-Mail: kblair@burtonconsultants.co.nz

Annexures:

- (a) A copy of The Oil Companies' submissions on the relevant points subject to this appeal
- (b) A copy of the decision on the relevant points subject to this appeal
- (c) Names and addresses of the persons to be served with a copy of this notice

Advice to Recipients of This Copy of Notice of Appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

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 or service 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 appellant's submission or the decision appealed. 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.

Contact Details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

Auckland:

Street address:

Specialist Courts and Tribunals Centre
Level 2
41 Federal Street (Corner Wyndham Street)
Auckland 1010

Postal address:

PO Box 7147
Wellesley Street
Auckland 1010

Or:

CX10086
Auckland

Ph: (09) 916 9091

Fax: (04) 916 9090

Wellington:

Street address:

District Court Building
Level 5
49 Balance Street
Wellington 6011

Postal address:
PO Box 5027
Wellington 6145
Or:

SX: 10044
Wellington

Ph: (04) 918 8300

Fax: (04) 918 8303

Christchurch:
Street address:
District Court Building
Level 1
282 Durham Street
Christchurch 8013

Postal address:
PO BOX 2069
Christchurch 8013
Or:
WX11113
Christchurch

Ph: (03) 365 0905

Fax: (03) 365 1740

ANNEXURE A

A copy of the Oil Companies' submissions on the relevant points subject to this appeal

<p style="text-align: center;">SUBMISSION BY THE OIL COMPANIES ON THE PROPOSED DISTRICT PLAN 2013 FOR INVERCARGILL CITY COUNCIL</p>
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TO: **Environmental and Planning Services Directorate**
Invercargill City Council
Private Bag 90104
INVERCARGILL

NAME:	Z Energy Ltd PO Box 2091 WELLINGTON	BP Oil NZ Ltd PO Box 892 WELLINGTON
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Mobil Oil NZ Ltd
PO Box 1709
AUCKLAND

(the Oil Companies)

1.0 INTRODUCTION

- 1.1 Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (*the Oil Companies*) receive, store and distribute refined petroleum products.
- 1.2 The Oil Companies core business relates to the operation and management of their individual service station networks, commercial refuelling facilities and bulk storage (Terminal) facilities at ports and airports. The Oil Companies also supply petroleum products to individually owned businesses. Hydrocarbons are the principal substance managed by the Oil Companies.
- 1.3 Within Invercargill City, the Oil Companies own, operate and/or supply service stations and truck stops and supply various commercial activities.
- 1.4 The Companies seek to ensure that the provisions of the Proposed Invercargill District Plan 2013 (*the District Plan*) do not unreasonably and/or unnecessarily restrict the Oil Companies' maintenance activities and oil industry standardised procedures and:
- (i) Appropriately provide for the use and storage of petroleum products and LPG at refuelling facilities; and
 - (ii) Ensure Contaminated Land provisions are in general accordance with the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011; and
 - (iii) Permit earthworks associated with retanking activities.
- 1.5 These matters are discussed in more detail as follows.

2.0 HAZARDOUS SUBSTANCES

Objectives and Policies

- 2.1 The objectives and policies relevant to hazardous substances are contained in Section 2.7.
- 2.2 Objective 1 and Policies 1-2 seek to avoid, and in some cases remedy and/or mitigate, adverse effects of hazardous substances. These provisions are supported.
- 2.3 Policy 3 seeks to avoid, remedy or mitigate the environmental effects associated with the accidental release of hazardous substances. However once there is an accidental release of hazardous substances, the focus of the policy should be on managing the risks associated with such an incident, rather than on avoiding, remedying or mitigating the effects on the environment per se.
- 2.4 Policy 4 refers to controls on the transportation of hazardous substances. It needs to be clear that the safe transportation of hazardous substances and the management of actual or potential effects of the transport of hazardous substances are addressed through other legislation and should not be achieved through controls on individual land use consents. The transportation of hazardous substances is regulated through other legislation and many decisions on transportation routes will need to be made according to the prevailing conditions on the day. While main transport routes are generally used, depending upon the location of a facility and the prevailing environment, this may not always be possible. Furthermore, it is wrong to suggest that promoting movement of hazardous substances along main transport routes will protect the environment. The environment along such routes may have particular sensitivities. Regulation of the transportation of hazardous substances matters is inappropriate in a District Plan, except in a very broad zoning sense.
- 2.5 Policies 5 and 6 are appropriately risk based, and are supported.

Definitions

- 2.6 The proposed definition of hazardous substances is as follows:

Hazardous Substance: Means

(A) any substance, or waste generated by the use of hazardous substances, with one or more of the following intrinsic properties which meets the Hazardous Substance (Minimum Degrees of Hazard) Regulations:

- (a) explosiveness*
- (b) flammability*
- (c) a capability to oxidise*
- (d) corrosiveness*
- (e) toxicity (including chronic toxicity)*
- (f) ecotoxicity, with or without bio-accumulation; or*

(B) any substance which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance or waste, generated by the use of hazardous substances, with any one or more of the properties specified in paragraph (A) of this definition.

- 2.7 The definition is largely similar to that found in the hazardous Substances and New Organisms Act 1996 (HSNO), however it includes a specific reference to waste generated by the use of hazardous substances, and a requirement to meet the Hazardous Substance (Minimum Degrees of Hazard) Regulations [2001].
- 2.8 The reference to 'waste generated by the use of hazardous substances' is largely unnecessary, as such a product would be a substance in its own right. Nonetheless it appears to be added for clarity and in principle is not opposed. A grammatical correction is required, however, by deleting the comma after "waste" in (B). Retaining the comma means that it is the substance or waste that must be generated by the use of hazardous substances, and that is clearly not what is intended.
- 2.9 The regulations referred to are promulgated under HSNO. Regulation 4(1) provides that *a substance is not hazardous for the purposes of the Act unless it meets the minimum degrees of hazard for at least 1 of the intrinsic hazardous substance properties specified in Regulation 7.* Accordingly, it is considered that the inclusion of reference to those regulations aids interpretation of the definition.
- 2.10 The definition is supported, with the grammatical change suggested.

Rules

- 2.11 The use and storage of Hazardous Substances in Invercargill City is managed in accordance with the rules in Section 3.7.
- 2.12 As relevant to the Oil Companies, Rule 3.7.1(G) permits the following specific activities:
The storage of sub-class 3.1A-D liquid petroleum fuels (as listed in Schedules 1 to 6 of the Hazardous Substances (Classification) Regulations 2001) in underground storage.
- 2.13 The Oil Companies support permitting such activities, as the underground storage of fuels at service stations will be permitted.
- 2.14 This is appropriate. The potential adverse environmental effects and risks to the natural and physical environment or to public health and safety presented by service stations, truck stops and refuelling facilities at airfields in associated with such storage and use are minimised to an acceptable level by the current practices of the Oil Industry, including meeting all licensing requirements (eg: Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985) and the HSNO requirements. Of particular relevance are the following regulations:
- *Below Ground Stationary Container Systems for Petroleum – Design and Installation HSNO COP 44, Environmental Protection Agency, May 2012; and*
 - *Below Ground Stationary Container Systems for Petroleum – Operation HSNO COP 45, Environmental Protection Agency, May 2012.*

- 2.8 These regulations apply to the design, installation and operation of underground fuel storage systems. It is considered that the relevant HSNO requirements adequately anticipate and manage the issues of potential effects on human health and safety from such sites.
- 2.15 Rule 3.7.1(H) provides that:
Unless provided for by Rules 3.7.1 (A) - (G) above, the manufacture, storage, use and management of hazardous substances not exceeding the quantity limits and other requirements stipulated in Appendix VII Hazardous Substances.
- 2.16 While Rule 3.7.1(H) makes adequate provision for the storage of petrol and diesel in underground tanks, Appendix VII does not make adequate provision for above ground storage of LPG.
- 2.17 In relation to LPG, there has been a recent shift in the method of supply of LPG, both within the oil industry and within the broader gas supply sphere. Not only are service stations now selling LPG in this way: other retail stores (for example, Mitre 10) are now supplying gas in prefilled bottles on an exchange basis.
- 2.18 At many service station sites now, storage of LPG in a single vessel (which enables smaller vessels to be filled on-site) is being replaced with aboveground storage in multiple smaller vessels contained in cages on site. The smaller LPG vessels are filled off-site, with empty bottles being swapped for pre-filled vessels. The Oil Companies are adopting a 'swap bottle' approach at a number of their service stations, as upgrade and/or development opportunities arise. Generally there are between 30-150 bottles stored on site (depending on the size of the site) each with a capacity of approximately 9kg.
- 2.19 This nationwide shift in practice should be recognised.
- 2.20 Provision should be made in the list of permitted activities for the storage and sale of LPG, noting the properties of LPG, that issues relating to the storage of hazardous substances will be addressed through HSNO and that any issues in respect of amenity, etc, will be dealt with via the relevant zone rules.

Relief Sought:

(additions underlined, deletions in ~~striketrough~~)

- 1. Retain Hazardous Substances Objective 1, and Policies 1 and 2 without modification.**

2.7.2 Objective 1

Protection of the environment and human health and safety from the adverse effects of the manufacture, storage, use, transportation and disposal of hazardous substances.

Policy 1 Environment:

Ensure that hazardous substances are manufactured, stored, used and disposed of in a

manner that avoids, remedies or mitigates adverse effects on the environment.

Explanation: If not manufactured, stored, used, transported or disposed of appropriately, hazardous substances can give rise to a range of adverse environmental effects. These effects can be reduced through appropriate manufacture, storage, use, transportation and disposal practices. Particular consideration should be given to the adoption of appropriate operating procedures and systems, staff training, defined transport routes, management plans, monitoring regimes and contingency plans. Particular consideration should also be given to the provision of containment systems or contingencies to control spillage or leakage, installation of appropriate signage and separation or buffers from sensitive natural environments, areas at significant risk of natural hazards and incompatible land use activities.

Policy 2 Public Health:

Ensure that hazardous substances are manufactured, stored, used and disposed of in a manner that avoids the adverse effects on public health.

Explanation: Hazardous facilities should be designed, located, developed and operated to ensure that any adverse effects on the health and well-being of people and communities are avoided. This can be done through appropriate manufacture, storage, use, transportation and disposal practices.

2. Amend Policy 3 to focus on the management of the potential risks associated with accidental release of hazardous substances, rather than on avoiding, remedying and/or mitigating the associated adverse effects. This can be achieved by making amendments along the following lines:

Policy 3 Accidents:

To establish facilities, systems and procedures which will minimise the risk ~~ensure avoidance, remediation, or mitigation of~~ pollution of soil, groundwater, water courses and air in the event of accidents involving hazardous substances.

Explanation: The manufacture, storage, use, transportation and disposal of hazardous substances can result in accidental discharges of the substances. It is important that systems are in place should this occur and that facilities are available to store or dispose of the hazardous substances in such a manner that will ~~not manage the potential for adversely affect~~ manage the potential for on the environment. The Council will need to collaborate with other local authorities and industries and public organisations to develop and implement systems and procedures in the event of accidents involving hazardous substances.

3. Delete Hazardous Substances Policy 4 as follows:

Policy 4 Transportation:

~~To encourage transportation of hazardous substances including wastes to be undertaken by modes and transport routes which prevent or minimise the risk of adverse effects on natural and physical resources and on other transport users, and which prevent the risk of adverse effects on human health.~~

~~**Explanation:** Co-locating industrial zones with access to heavy traffic routes and key transportation networks will encourage the transportation of hazardous substances on routes that do not pass through more sensitive urban environments.~~

4. Retain Hazardous Substances Policies 5 and 6 without modification:

Policy 5 Other legislation:

To recognise the provisions of other legislation, such as the Hazardous Substances and New Organisms Act 1996, which manage the adverse effects of manufacture, storage, use and disposal of hazardous substances.

Explanation: There needs to be congruity between legislation passed at Central Government level, and regional and district plans.

Policy 6 Knowledge:

To improve knowledge of hazardous substance manufacture, storage, use, transportation and disposal

Explanation: There are a wide range of activities within the District that utilise, store, transport and dispose of hazardous substances. It is therefore important for the Council to have an understanding of the nature, quantities and location of these activities for emergency management, as well as for monitoring to ensure the protection of public and environmental health and safety. The community and users of hazardous substances would also benefit from improved knowledge.

5. **Retain the definition of hazardous substances with one exception, which is to delete the comma after 'waste' from subsection (B) of the definition. This can be achieved by making amendments along the following lines:**

Hazardous Substance: Means

(A) any substance, or waste generated by the use of hazardous substances, with one or more of the following intrinsic properties which meets the Hazardous Substance (Minimum Degrees of Hazard) Regulations:

- (a) explosiveness
- (b) flammability
- (c) a capability to oxidise
- (d) corrosiveness
- (e) toxicity (including chronic toxicity)
- (f) ecotoxicity, with or without bio-accumulation; or

(B) any substance which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance or waste, generated by the use of hazardous substances, with any one or more of the properties specified in paragraph (A) of this definition.

6. **Amend Rule 3.7.1(G) to permit the storage of LPG in single or multiple vessel storage tanks. This can be achieved by making amendments along the following lines:**

Amend Rule 3.7.1(G) to permit the following specific activities:

- (i) *The storage of sub-class 3.1A-D liquid petroleum fuels (as listed in Schedules 1 to 6 of the Hazardous Substances (Classification) Regulations 2001) in underground storage.*
- (ii) The storage of HSNO class 2.1.1A LPG in single or multiple vessel storage tanks.

Policy 4 On-site containment:

~~To favour on-site containment of contamination as part of a “best practical means” approach to addressing it unless the contaminated material can be removed to an accredited disposal facility capable of receiving the contaminated material.~~

~~**Explanation:** If contamination can be successfully contained and managed on-site it avoids the creation of another area of contamination elsewhere.~~

5. Amend Policy 6 to recognise that the District Council’s role in management of contaminated land is limited to effects on human health. This can be achieved by making amendments along the following lines:

Policy 6 Management:

With regard to human health effects, ~~To determine appropriate management action for contaminated land on the basis of:~~

(A) The type of contaminants involved.

(B) The degree of contamination.

(C) The availability and practicality of appropriate technology for monitoring or remediation.

(D) Existing and likely future use of the site and surrounding land use.

(E) National standards or guidelines.

(F) The potential for adverse ~~environmental~~ or public health effects offsite or downstream.

Explanation: Management of contaminated land should be done on a site by site basis on the basis of nationally accepted good practice.

6. Retain without modification the contaminated land rules as follows.

3.3.1 Note: All activities, including removing or replacing a fuel tank, soil sampling, soil disturbance, subdivision or change in land use, undertaken on a “piece of land”, are required under the RMA to comply with the requirements of Clause 8 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 contained in Appendix XII. The National Environmental Standard sets out what can be undertaken as a permitted activity and where resource consent will be required.

Where the need for resource consent is triggered by the National Environmental Standard, any relevant matters should be addressed in the Assessment of Effects.

7. Retain a copy of the NES in Appendix XII – National Environmental Standard – Contaminated Land.

4.0 EARTHWORKS

- 4.1 Service stations generally have different functions, appearance and effects to other activities in the surrounding environment, However, because of their function, they are required to be strategically distributed around the District and are generally located in urban environments where there is the most demand for their services. It is important that existing service stations can continue to operate and any routine maintenance works should not be constrained so that they can continue to provide a necessary service for the community. This appropriately recognises the existing environment.

- 4.2 Accordingly, the Oil Companies support temporary maintenance / upgrade works such as replacing underground storage tanks as permitted activities.
- 4.3 The most common earthworks undertaken by the Oil Companies are those associated with the replacement and/or removal of underground fuel storage tanks (underground petroleum storage systems (or UPSS)). There are no specific provisions in the District Plan that recognise or provide for earthworks that are necessary to remove and/or replace an UPSS.
- 4.4 Removal and/or replacement of an UPSS will generally be undertaken for a number of reasons such as the underground tank is getting old and needs replacing, the site is being upgraded, a leak is suspected or the site is being closed. In each case an environmental assessment/investigation is undertaken as part of the removal/replacement process.
- 4.5 The total volume of earthworks required for an UPSS removal will depend on the number of tanks being removed, the size of the tanks and the area in which the tanks are located, but in any case is controlled through the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (*the NES*).
- 4.6 UPSS replacement and/or removal generally involves:
- Removal of above ground equipment and concrete cutting and breaking;
 - Excavations to a depth of some 4.5m to expose the UPSS elements (tanks, fuel & pipe lines, fill points). These excavations are generally sheet piled;
 - Removal of UPSS elements for off-site disposal/destruction;
 - Removal of earth from the site, including the excavation of any impacted soils adjacent to the UPSS, and its disposal at an appropriate facility and validation sampling of excavations; and
 - Backfilling and restoration of the ground level to its existing level.
- 4.7 While these activities are now controlled by and subject to the NES, they are still also subject to any relevant earthworks standards in the District Plan. Because of this, the earthworks associated with retanking and replacement works are often inefficiently and inappropriately required to obtain resource consents pursuant to provisions controlling such matters as volume of works. For example the District Plan requires resource consent for earthworks exceeding 50m³ per site in urban zones (Rule 3.17.2(a)), including in the residential, business and industrial zones.
- 4.8 The earthwork controls in the District Plan have the potential to unnecessarily constrain the permitted activities of the NES, in relation to retanking activities. As such, the Oil Companies request that an exemption from the earthworks provisions is provided for UPSS removals/replacements in all zones. This could be achieved by adding a specific sub-clause (F) to Rule 3.17.2, after the restrictions on the volume of earthworks such that any such restrictions are not otherwise applied.

- 4.9 The inclusion of such an exemption is about ensuring that UPSS tanks can be removed without needing to unnecessarily obtain resource consents. This is considered appropriate as with timely, efficient procedures in place, the period in which the earthworks are undertaken is brief and any effects are temporary. There are no changes to ground level and the surface of the area affected is reinstated. In the context of an existing service station activity, the earthworks will not change the general topography of the site nor will they adversely affect the appearance of the site. As earthworks will already have occurred in order to put the tanks in place, their removal and/or replacement will not disturb any sites of particular historical or cultural significance. The site will therefore retain its generic character, with no impact on the wider landscape character. Standard procedures employed on site include the adoption of a Management Plan, describing the site management regime to be adopted on site, including full erosion and sediment control measures to be employed on the site and measures to mitigate against and, if necessary, address potential nuisance effects, including details of specific measures to control noise and dust.
- 4.10 Furthermore, additional regulation is neither effective nor efficient, given that the replacement and removal of UPSS are already adequately controlled through HSNO (including the requirement to comply with HSNOCOP44 and 45) and the NES (including (Module 7 of) the MfE Guidelines: Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand, which earthworks permitted pursuant to the NES have to comply with).
- 4.11 Module 7 of the MfE Guidelines contains an overview of the options readily available in New Zealand for addressing site contamination. These options range from control of the site to prevent exposure to site users or the surrounding environment, to treating the site soil, recovering product from the groundwater, and general water management. They include measures designed to address the potential for nuisance effects to occur, including management of dust, stockpiles, disposal, truck cleaning, vapour management and access restrictions. Under the Guidelines an investigation report also needs to be generated and provided to the territorial authority.
- 4.12 There is no need for another layer of regulation to be added.

Relief Sought:

(additions underlined, deletions in ~~striketrough~~):

1. **Provide for earthworks associated with the installation and removal of an underground petroleum storage system as a permitted activity in all zones and ensure that the quantity of earth moved is not subject to additional restriction. This can be achieved by making the following changes to the earthworks rules in all zones:**

Rule 3.17.2

Subject to Rule 3.1 Biodiversity, Rule 3.8 Heritage and Rule 3.10 Natural Features, Landscapes and Townscapes, it is a permitted activity to undertake the following land use activities which

fill or recontour land.

...

(E) Activities associated with the construction, operation, maintenance, repair and upgrading of infrastructure.

Provided that the quantity of earth moved shall not exceed:

(a) 50m³ over 12 months in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4 and 5, Industrial 1, 1A and 2, and Otatara Zones.

(b) 200m³ over 12 months in the Rural 1 and Rural 2 Zones.

(c) 1,000m³ over 12 months elsewhere.

(F) The removal and/or replacement of underground petroleum storage tanks.

2. Alternatively, the definition of earthworks could be amended as follows:

Earthworks: Means the disturbance of land surfaces by the removal or depositing of material, excavation, filling or the formation of roads, banks, tracks. It does not include the digging of holes for the erection of posts, planting of trees or other vegetation, or the cultivation of farm land. This does not include earthworks undertaken in association with the removal of underground petroleum storage tanks.

- **THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD NOT BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.**
- **THE OIL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.**
- **THE OIL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—**
 - (A) ADVERSELY AFFECTS THE ENVIRONMENT; AND**
 - (B) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.**

Dated at TAKAPUNA this 14th October 2013

Signature for and on behalf of
The Oil Companies:



Karen Blair
Director / Planner

Address for service:

**BURTON PLANNING CONSULTANTS LIMITED
PO Box 33-817
Takapuna, 0740
Auckland**

Attention: Karen Blair

**Phone: (09) 917-4305
Fax: (09) 917-4311
E-Mail: kblair@burtonconsultants.co.nz**

**FURTHER SUBMISSIONS BY THE OIL COMPANIES:
Z-ENERGY LIMITED, MOBIL OIL NEW ZEALAND AND BP NEW ZEALAND LIMITED ON
SUBMISSIONS TO THE PROPOSED INVERCARGILL CITY DISTRICT PLAN**

To: Environmental and Planning Services
Invercargill City Council
Private Bag 90104
Invercargill

By E-Mail: districtplan@icc.govt.nz

Name of further submitter:

Z-Energy Ltd
PO Box 2091
WELLINGTON

BP Oil NZ Ltd
PO Box 892
WELLINGTON

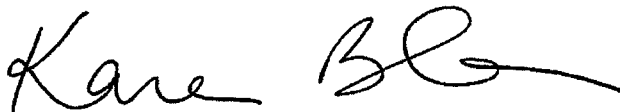
Mobil Oil NZ Ltd
PO Box 1709
AUCKLAND

Hereafter referred to as the "Oil Companies".

1. The Oil Companies further submissions are as contained in the attached Table.
2. The Oil Companies are making further submissions as a person that has an interest in the proposed plan that is greater than the interest of the general public. The Oil Companies have terminal facilities in Bluff in the Seaport Zone and the proposed Industrial 1A zone (as shown on Planning Maps 28 and 30).
3. The Oil Companies do wish to be heard in support of their further submissions.
4. If others make similar submissions the Oil Companies may be prepared to consider presenting a joint case with them at any hearing.

Dated at AUCKLAND this 13th day of December 2013

Signature of person authorised to
sign on behalf of the Oil Companies:



Karen Blair
Director/Principal Planner

Address for service:

BURTON PLANNING CONSULTANTS LIMITED

Level 1, 2-8 Northcroft Street

PO Box 33-817

Takapuna

AUCKLAND 0740

Attention: Karen Blair

Ph: (09) 917 4305 Fax: (09) 917 4311

kblair@burtonconsultants.co.nz

**FURTHER SUBMISSIONS ON BEHALF OF THE OIL COMPANIES ON SUBMISSIONS TO
THE PROPOSED INVERCARGILL CITY PLAN**

Submission	Relief Sought By Submitter (additions sought shown as underline and deletions in strikethrough)	Position of Further Submitter	Reason For Support / Opposition
Submission 24.59 South Port NZ Limited	<p><u>relocation activities.</u></p> <p>Introduce a new policy to address reverse sensitivity issues as follows:</p> <p><u>To enable the efficient and effective operation, use and development of the Port of Bluff by:</u></p> <p><u>(a) Ensuring that any adverse effects arising from noise sensitive activities located in the adjoining zones are appropriately avoided or mitigated;</u></p> <p><u>(b) Ensuring that areas which can be used to buffer the Port from activities that may result in reverse sensitivity effects on the Port are utilised;</u></p> <p><u>(c) Providing for the future expansion of the Port by zoning an appropriate area of land for such purposes.</u></p>	Support in part Oppose in part	<p>The Oil Companies support an additional policy being included to ensure that reverse sensitivity effects are avoided or minimised as far as is practicable. This would give effect to the proposed Objective. Such a policy is necessary to provide for the existing operation of and future growth of the Port facilities in a sustainable manner, and to protect it from the adverse effects arising from sensitive users in close proximity. This should include the Oil terminals.</p> <p>The Companies oppose the consideration of adverse effects from sensitive activities being limited to noise or amenity; it should cover other adverse effects such as risk. The existing terminal facilities are already constrained to a degree by existing sensitive activities in close proximity (i.e. residential activity). The existing terminal facilities should be protected from further encroaching risk sensitive activities. For example it does seem inappropriate to facilitate Business 2 zoning opposite the existing Z terminal. The Business 2 zoning is more permissive than the residential zone in that it permits child day care activities, hospital activities, educational activities, visitor accommodation as well as residential activity.</p>
Submission 24.66 South Port NZ Limited	<p>Amend the list of permitted activities as follows:</p> <p><u>(A) Seaport activities</u></p> <p><u>(B) Infrastructure</u></p> <p><u>(C) Commercial Activities</u></p> <p><u>(D) Commercial Recreational Activities</u></p> <p><u>(E) Industrial Activities – Both Heavy and Light Industry</u></p> <p><u>(F) Reserves</u></p>	Support	<p>The list of permitted activities has been inappropriately reduced from that contained within the operative District Plan for activities permitted within the existing Seaport Zone.</p> <p>Certain activities including infrastructure, commercial and industrial activities also need to be provided for within the zone. Such activities currently exist in the zone, are appropriately provided for within the zone and may expand in the future. Putting undue constraints on the activities that can (and need to / should) be undertaken within the Seaport Zone is likely to severely compromise the operational viability of the Port, and the activities that would otherwise be located within the Seaport and/or Industrial 1A zone.</p>
Submission 24.67 South Port NZ Limited	Retain Rule 3.40.2	Support	The default activity status for activities not otherwise provided for in the zone should be discretionary.

**FURTHER SUBMISSIONS ON BEHALF OF THE OIL COMPANIES ON SUBMISSIONS TO
THE PROPOSED INVERCARGILL CITY PLAN**

Submission	Relief Sought By Submitter (additions sought shown as underline and deletions in strikethrough)	Position of Further Submitter	Reason For Support / Opposition
Submission 24.68 South Port NZ Limited	Retain Rule 3.40.3	Support	Noise sensitive activities should be dissuaded. A non-complying activity status is appropriate. This would ensure that the adverse effects from Port noise operations are appropriately avoided in such areas.
Submission 24.1 South Port NZ Limited	That the large section of the Foreshore Road land (east of Shannon Street) that has been allocated the Industrial 1A (Marine) Zoning as shown on Planning Map 30 should be zoned Seaport Zone.	Support	This area includes the Z bulk storage oil terminal which is currently zoned Seaport Sub-Area in the operative District Plan. The Proposed District Plan is proposing an Industrial 1A zoning. The reason for this change is unclear. Such zoning places undue uncertainties and restrictions on the terminal and fails to recognise the functional relationship the terminal has to the Port. Furthermore the zoning compromises the Port's current and future forward planning with respect to its existing landholdings, and the viability of a number of existing land uses. It also creates inconsistencies in the way that bulk oil facilities are dealt with at the Port. Zoning this area Seaport Zone as requested in the submission is entirely consistent with the intent of the Seaport Zone, including having regard to, for example, the introductory statement and Policy 2.42.3.1. The terminal facilities are functionally and operationally still part of the Port. There is a risk that development in the adjoining area fails to take into account and recognise this, thereby resulting in adverse reverse sensitivity effects (see also further submission in relation to submission 71.51).
Submissions 90.15, 90.26 and 90.32 HW Richardson Group Limited	Amend the Introduction, the definition of Light Industry and Rule 3.29.1 to delete the clauses restricting the hours of operation and the sizes of sites.	Support	The Oil Companies bulk storage terminals are not specifically provided for and therefore fall within the most appropriate activity definition. This appears to be "light industry". However the definition includes defacto rules relating to the size of site and hours of operation. This is not appropriate in a definition (if at all). It fails to recognise that the terminal facilities (and many other light industries) need to be operational on a 24/7 basis.
Submissions 71.16, 71.51 and 71.52 NZAS Ltd	Regulation of hazardous substances is best left to HSNO. Delete Method 1. Replace 3.7.1 with the following: <u><i>If an activity complies with the requirements below, it is a permitted activity:</i></u>	Support in part	The Oil Companies support the submission in part, which is consistent with recent guidance issued by MfE, that supports a move away from the duplication of HSNO provisions in district plans, stating that the inclusion of hazardous substance controls in plans

**FURTHER SUBMISSIONS ON BEHALF OF THE OIL COMPANIES ON SUBMISSIONS TO
THE PROPOSED INVERCARGILL CITY PLAN**

Submission	Relief Sought By Submitter (additions sought shown as underline and deletions in strikethrough)	Position of Further Submitter	Reason For Support / Opposition
	<p><u>(a) The activity complies with the requirements of the Hazardous Substances and New Organisms Act 1996 (HSNO), and its associated regulations; and</u> <u>(b) A valid Hazardous Substance Location Certificate as required by HSNO is held; and</u> <u>(c) The name and address of the Test Certifier issuing certificates under the HSNO regime (includes Hazardous Substance Location Certificates and various design certificates) is provided to the Council; and</u> <u>(d) Copies of all Hazardous Substance Location Certificates are provided to the Council.</u></p> <p>Delete 3.7.2 and 3.7.3</p>		<p>should be the exception rather than the rule, and that they should only be included when a rigorous section 32 analysis shows that these controls are justified (refer http://www.qualityplanning.org.nz/index.php/planning-tools/10-useful-links/452-managing-hazardard-substances).</p> <p>The Operative District Plan, in Appendix V (Hazardous Substances), provides a specific exemption from the thresholds for the "two Bluff Tank Farms and the Island Harbour, Bluff". This intent should be carried through into the proposed plan. In the proposed Plan, new or expanded fuel storage facilities (except diesel in the Seaport Zone) will trigger discretionary activity consent. The Oil Companies are not necessarily opposed to new terminal facilities or increases in volume requiring consent, as at this scale there may be some environmental effects that won't be addressed via the HSNO process alone. However it seems incongruous that one terminal has diesel storage permitted by the Plan but the other doesn't, as a result of a change in zoning, when the existing receiving environments are effectively the same (e.g. both have residential activities and the harbour in reasonably close proximity) and operationally and functionally both terminals remain part of the Port infrastructure.</p> <p>Further, the proposed Business 2 zoning across the road from the Z terminal is more permissive than the residential zone in that it permits child day care activities, hospital activities, educational activities, visitor accommodation as well as residential activity. Such zoning will increase the risk profile for the terminal from such encroaching activities and is contrary to objective 1 for the Port. Encouraging or facilitating more sensitive activities in such close proximity to an existing facility is not good land use planning. Any new risk sensitive development in the</p>

**FURTHER SUBMISSIONS ON BEHALF OF THE OIL COMPANIES ON SUBMISSIONS TO
THE PROPOSED INVERCARGILL CITY PLAN**

Submission	Relief Sought By Submitter (additions sought shown as underline and deletions in strikethrough)	Position of Further Submitter	Reason For Support / Opposition
			area needs to recognise and take into account the fact that the Z terminal is existing and remains functionally part of the Port. This should be signalled in part by reinstatement of the Seaport zone for the facility (see also further submission in relation to submission 24.1).

ANNEXURE B

A copy of the decision on the relevant points subject to this appeal



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 25

Hazardous Substances

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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INTRODUCTION

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this Decision we consider the submissions lodged in relation to "hazardous substances".

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are Sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Reports prepared for the Committee considered these matters in detail and we have had regard to them. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

"The Council" means the Invercargill City Council.

"FS" means Further Submission.

"Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

"Hearings Committee" or "the Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

"HSNO" or "HSNO Act" means the Hazardous Substances and New Organisms Act 1996.

"IAL" means Invercargill Airport Limited.

"MfE" means Ministry for the Environment.

"NZAS" means New Zealand Aluminium Smelter Limited.

"The Oil Companies" means Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd.

"Operative Plan" or "Operative District Plan" means the Invercargill City District Plan 2005.

"Proposed Plan" or "Proposed District Plan" means the Proposed Invercargill City District Plan 2013.

"RMA" means the Resource Management Act 1991.

"South Port" means South Port New Zealand Limited.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

THE FIRST HEARING

The first hearing to consider submissions lodged to the matters set out in this decision was held in the Council Chambers of the Invercargill City Council on 2 March 2015.

Section 42A Report

The Hearings Committee received a report from Joanna Shirley, Policy Planner at the Invercargill City Council. In her report, Mrs Shirley advised that under the RMA Regional Councils and Territorial Authorities have been given a specific function to control the potential effects of the use, development, or protection of land, for the purpose of preventing or mitigating any adverse effects of the storage, use, disposal, or transportation

of hazardous substances. In her view, the Proposed District Plan meets this function through its provisions, by placing controls on the different classes of hazardous substances in order to ensure that adverse effects are avoided, remedied or mitigated.

Mrs Shirley noted the key concern of the submitters was on the overall approach of the Plan in addressing hazardous substances. Submissions consider that the HSNO Act already provides adequate control in managing hazardous substances and that the District Plan provides unnecessary duplication of these controls. In her view, the approach of the Proposed District Plan is necessary in order to ensure the appropriate management of hazardous substances. The Plan has sought to align its provisions with HSNO and avoid any unnecessary duplication. However, she stated that in some instances duplication or more stringent controls are necessary in order to address a specific resource management issue, not otherwise controlled by HSNO.

At the hearing, Mrs Shirley introduced Rex Alexander of Envirocom (NZ) Limited who had advised Council staff in the preparation of the Proposed District Plan and the Section 42A Report. In reply to questions from the Committee Mr Alexander highlighted that the HSNO legislation sought to ensure that hazardous substances were safely transported, stored, and used, and appropriate protection was provided to areas where they were stored. He advised the Committee that it was the role of the RMA to ensure safety and provide protection to people and communities, particularly in relation to their storage. Mr Alexander gave an example of chlorine used at swimming pools which creates a gas that has the potential to cause discomfort to people on properties nearby. In his view it is an RMA issue to assess whether a buffer area should be provided between the area where the chemical is used and any residential property.

The Committee also sought advice from Mr Alexander as to the appropriate provisions that should apply to the storage of LPG in cylinders where associated with the “swap and go” services and selling of gas bottles at service stations. He explained there are appropriate HSNO Act requirements that control where LPG bottles can be stored on a service station and an increase in the allowable limit to 450 kg is appropriate recognising this.

Submitters Attending the Hearing

Federated Farmers

Ms Tanith Robb appeared on behalf of Federated Farmers of New Zealand, reading a statement prepared by David Cooper, Senior Policy Adviser.

Mr Cooper in the written statement supported changes recommended to the Introduction, Issue 1, the new policy and Rule 3.7.1. However, he noted some minor wording changes were required to reflect the EPA Guidelines on above-ground fuel storage to adopt the name change from FertResearch to the Fertiliser Association of New Zealand.

Mr Cooper requested that further consideration be given to Submission 88.80 to amend Rule 3.7.2 to a controlled activity, so as to provide certainty to farmers that fertiliser and other materials could be stored temporarily on farm land prior to application or use. A discussion then took place between Ms Robb and Mrs Shirley, the outcome of which indicated that the temporary storage of fertilisers and other materials was provided for by the Plan as a permitted activity.

Invercargill Airport Limited

Kirsty O'Sullivan of Mitchell Partnerships appeared on behalf of IAL, together with Chloe Surridge, General Manager of IAL. Mrs O'Sullivan advised that IAL accepted the recommendations as they applied to their submissions and further submissions on this topic.

Material Tabled at the Hearing

PowerNet Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of PowerNet Limited that the recommendations in the Section 42A Report were accepted.

H W Richardson Group Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of H W Richardson Group Limited that it still opposed the hazardous substances provisions of the Proposed Plan because they duplicated matters dealt with by the HSNO Act and considered there was no justification provided in the Section 32 Evaluation for the approach adopted. Mrs Dowd also stated that a review of the HSNO Act would likely result in further inconsistencies and it would be preferable to rely on the HSNO Act rather than include limits in the Plan. She considered the recommended amendment to 2.7.3 Policy 1 as unnecessary and requested that the addition sought by the submitter to Rule 3.7.1 be adopted.

Mrs Dowd also referred to Further Submission FS11/4 of H W Richardson Group Limited which opposes referring to transportation within Policy 1. She considered that it is inappropriate to regulate the transportation of hazardous substances through resource consents.

South Port NZ Limited

Claire Hunter of Mitchell Partnerships Limited advised on behalf of South Port that it accepted the changes recommended to the introductory text relating to hazardous substances management within the Seaport Zone.

Ms Hunter noted South Port in Further Submission FS7/17 agreed with NZAS that the rules in this section of the Plan should be removed because sufficient regulatory control was available through the HSNO Act. She accepted that the RMA enables the Council to manage adverse environmental effects arising from the storing, using, disposing, or transporting hazardous substances. However, she does not see any sound resource management reason for the inclusion of the thresholds that have been derived for the Proposed Plan, nor have these been adequately justified in Section 32 terms.

The Oil Companies

Karen Blair of Burton Consultants, on behalf of the Oil Companies, questioned why additional District Plan controls on hazardous substances are needed over and above those set out in HSNO and, if so, what the nature of those controls might be. She referred to the current guidance from the Ministry for the Environment that in general, hazardous facilities which comply with the HSNO requirements for the management of hazardous substances should not have significant actual adverse effects on the environment. Further, that the inclusion of hazardous substances provisions in District Plans should be the exception and not the rule and included only when a rigorous Section 32 analysis shows that these controls are justified.

Mrs Blair added that the MfE guidance goes on to identify a range of situations where additional District Plan controls may be appropriate such as:

- for substances not controlled by HSNO;
- for issues that are not within the scope of HSNO, such as reverse sensitivity; or
- where a site has unusual characteristics that are not contemplated or addressed by the relevant HSNO controls, such as proximity to water courses or potable water supplies, wetlands or cultural issues.

Mrs Blair advised the Committee that if the Council does consider District Plan controls are still required, then these should only be applied to those matters where HSNO does not provide sufficient management of risks associated with those substances, and all other provisions should be deleted. She also stated that no additional control on service station facilities is necessary.

THE SECOND HEARING

The second hearing to consider the submissions lodged to Appendix VII Hazardous Substances was held in the Council Chambers of the Invercargill City Council on 1 September 2015.

Section 42A Report

The Hearings Committee received a report, entitled "Report 39 Miscellaneous Submissions" from Liz Devery, Senior Policy Planner at the Invercargill City Council. Mrs Devery referred to a submission by NZAS seeking the deletion of Appendix VII. She considered the issues raised as being the same as those dealt with at the first hearing and recommended that the submission be rejected. She also referred to a submission of the Department of Conservation opposing the approach adopted in the Appendix to ecotoxic hazardous substances. Mrs Devery highlighted that ecotoxicity was to be taken into account in considering any resource consent required when threshold limits allowed under other classes were exceeded. As a consequence, it was not necessary to specify limits for ecotoxic hazardous substances.

Submitters Attending the Hearing

NZAS Ltd

Craig Scarlett, the Specialist Environment and Hazardous Substances at NZAS provided written evidence to the Committee in which he outlined the volumes of the various hazardous substances stored on the site which far exceeded those permitted by the Proposed Plan. He highlighted that volumes of hazardous substances permitted within the Smelter Zone were unrealistically low because the Smelter Zone was included in the same category as sites within the Industrial 2 - 4 zones. It was also his view that NZAS was in a unique situation being in an isolated location with strict site security, a detailed emergency response plan and on-site fire and ambulance services.

Mr Scarlett reinforced the NZAS position that the hazardous substances provisions in the Proposed Plan duplicated the HSNO Act provisions and should be deleted. If that was not done, then a second preference would be to exempt the Smelter Zone from the Plan requirements. A third preference would be providing separately for the Smelter Zone with permitted hazardous substances at a level that reflected the existing approved maximum level held on the site. To facilitate the third preference Mr Scarlett provided a copy of the Hazardous Substances Location Test Certificate showing the approved level of various hazardous substances at the smelter. However, he indicated other substances were also held and additional information would need to be provided to the Council to enable the details to be inserted into Appendix VII.

Material Tabled at the Hearing

Department of Conservation

Geoff Deavoll, Resource Management Planner with the Department of Conservation, advised of the withdrawal of Submission 64.23 relating to Appendix VII.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Relationship between HSNO and RMA

The relationship between the HSNO Act and the provisions in the District Plan was a matter of contention between a number of submitters and those persons advising the Committee. In short, the submitters argued that the HSNO Act provided adequate control of hazardous substances, and the matters contained in the District Plan duplicated these. It was requested that the District Plan rules be deleted.

The view of Council staff and technical experts advising the Committee was best summarised by Rex Alexander at the hearing, where he stated that the HSNO Act sought to ensure that hazardous substances were safely transported, stored, and used, and appropriate protection was provided to areas where they were stored. In other words, the HSNO Act was there to protect the hazardous substances. Mr Alexander also advised the Committee that it was the role of the RMA to ensure safety and provide protection to people, communities and the wider environment, particularly in relation to their storage.

The Committee considered this a clear cut issue. The two enactments provided for hazardous substances from two different perspectives and in different ways. As a consequence, it concluded that it was appropriate to include rules in the District Plan in relation to the manufacture, storage, use and disposal of hazardous substances. The Committee noted that the zone rules applied to the manufacture, use and disposal of hazardous substances whereas their storage was considered in Section 3.7 and Appendix VII. The Committee concluded that such an approach was intended by the RMA and did not duplicate the provisions of the HSNO Act. The Committee noted also that for some substances "no thresholds" have been provided in Appendix VII. In these cases, the Council was of the view that the matters of potential concern were being considered through other Acts, and to include controls in the District Plan in such circumstances would be an unnecessary duplication of procedures.

Ms Hunter on behalf of South Port accepted that the RMA enables the Council to manage adverse environmental effects arising from the storing, using, disposing, or transporting hazardous substances. However, she did not consider the District Plan provisions had been adequately justified in Section 32 terms. H W Richardson Group Limited made a similar comment. In considering this matter, the Committee noted that neither submitter lodged an explicit submission referring to the Section 32 assessment undertaken with regard to hazardous substances as required by Section 32A of the RMA. As a consequence, the submitters had no authority to raise the matter at this stage. Notwithstanding that, the Committee is satisfied that the Section 32 assessment carried out at the time of the release of the Proposed Plan adequately considered this matter, noting that sole reliance on the HSNO Act would not achieve the purpose of the RMA as the HSNO Act "relates largely to the technical aspects of storing, using and disposing of hazardous substances and not necessarily assessing environmental impacts". The Committee concluded that it is not appropriate to rely solely on the HSNO Act and that provision, including rules, was required in the District Plan.

The Committee did accept however that clear boundaries were required as to the matters that the Council would seek to manage through the RMA processes, and in particular in considering resource consents. The Committee agreed with further submissions FS7.15 South Port New Zealand Ltd and FS11.4 H W Richardson Group Ltd in opposing the consideration of the "transportation" of hazardous substances when assessing resource consents. The Committee accepted that other legislation, the Land Transport Act 1998 and the HSNO Act 1996, adequately regulated the transportation of hazardous substances. The Committee also noted that the Council as a condition on a resource consent cannot direct which route is used for the transport of hazardous substances. As a

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SUBMISSION	DECISION
<p>Policy 1 Ensure that hazardous substances are manufactured, stored, used, <u>transported</u> and disposed of in a manner that avoids, remedies or mitigates adverse effects on the environment.</p> <p>Policy 2 Ensure that hazardous substances are manufactured, stored, used, <u>transported</u> and disposed of in a manner that avoids adverse effects on public health.</p> <p>FS7.15 South Port New Zealand Ltd and FS11.4 HW Richardson Group Ltd oppose Submissions 65.16 and 65.17 and the inclusion of the term "transported" as it is inappropriate to regulate the transportation of hazardous substances through the control of land use consents. The further submitters consider that HSNO more adequately provides for this and that there is no need to duplicate the management functions.</p>	<p>"transportation".</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The HSNO Act 1996 and Land Transport Act 1998 adequately control the transportation of hazardous substances and this is referred to in Policy 4 as amended by Decision 25/11. 2. The transportation of hazardous substances is of concern to the wider community and it is appropriate, and consistent with the purpose of the RMA for the Council to use non-regulatory methods and involvement in other Acts to minimise risks associated with such transportation.
<p>15.2 Balfance Agri-Nutrients Ltd</p> <p>The submitter supports Policy 3. Retain Policy 3 as notified.</p>	<p>Decision 25/9</p> <p>This submission is noted.</p> <p>Amendments to District Plan</p> <p>None required.</p> <p>Reason</p> <p>The submitter supports the plan provision and seeks no change to it. However, it should be noted that Decision 25/10 makes minor amendments to the policy to clarify its intent.</p>
<p>13.3 Z Energy Ltd</p> <p>Policy 3 Accidents - Once there is an accidental release of hazardous substances, the focus should be on managing the risks associated with such an incident, rather than on avoiding, remedying or mitigating the effects on the environment per se. Amend Policy 3 to focus on the management of the potential risks associated with the accidental release of hazardous substances along the following lines:</p> <p>To establish facilities, systems and procedures which will <u>minimise the risk</u> ensure avoidance, remediation, or mitigation of pollution of soil, groundwater, water courses and air in the event of accidents involving hazardous substances.</p> <p>Explanation: The manufacture, storage, use, transportation and disposal of hazardous substances can ... hazardous substances in such a manner that will <u>not manage the potential for adversely affect effects on</u> the environment. The Council will ..."</p> <p>FS2.25 NZAS Ltd support in part Submission 13.3, agreeing that in the event of a spill, risks should be appropriately managed. However, also consider that there is an</p>	<p>Decision 25/10</p> <ol style="list-style-type: none"> (i) Accept Submission 13.3 Z Energy Ltd (ii) Accept in part Submission 65.18 ICC Environmental and Planning Services <p>Amendments to District Plan</p> <p>Amend Policy 3 as follows:</p> <p>To <u>require the establishment of</u> facilities, systems and procedures which will <u>ensure avoidance, remediation, or mitigation</u> minimise the risk of pollution of soil, groundwater, water courses and air in the event of accidents involving hazardous substances.</p> <p>Explanation: The manufacture, storage, use, transportation and disposal of hazardous substances can result in accidental discharges of the substances. It is important that systems are in place should this occur and that facilities are available to store or dispose of the hazardous substances in such a manner that will <u>not manage</u></p>

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SUBMISSION	DECISION
<p>obligation under the RMA to "avoid, remedy or mitigate" adverse effects of a spill. Amend Policy 3 to recognise the importance of managing risk and also that adverse effects must be avoided, remedied or mitigated.</p> <p>65.18 ICC Environmental and Planning Services The submitter supports Policy 3 in part. The submitter considers that it is not clear in the Policy who is going to establish the facilities, systems and procedures referred to. The policy should be reworded to state that Council will work in collaboration with other organisations in giving effect to the policy. Amend Policy 3 to read: <u>To collaborate with other organisations</u> (To establish facilities, systems and procedures which will ...</p> <p>FS2.26 NZAS Ltd support Submission 65.18. Given the dual responsibilities for managing hazardous substances, it is appropriate the policy acknowledges that there will be collaboration with other organisations in establishing facilities, systems and procedures for addressing accidents. The further submitter also recommends that the explanation sets out who the Council will collaborate with, in particular the EPA and the organisations that use, store and dispose of hazardous substances. Amend Policy 3 as sought and set out in the Explanation who the Council will collaborate with.</p>	<p><u>the potential for adversely affect effects on</u> the environment. The Council will <u>also</u> need to collaborate with other Local Authorities and industries and public organisations to develop and implement systems and procedures in the event of accidents involving hazardous substances.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. It is accepted that in the event of an accident the focus should be on minimising the risks of pollution rather than on the avoidance, remediation, or mitigation of pollution. 2. The explanation to the Policy and Method 5 emphasises collaboration with other Local Authorities, industries, and public organisations to develop and implement systems and procedures in the event of accidents involving hazardous substances. It is not appropriate to individually name the specific organisations that the Council will collaborate with.
<p>13.4 Z Energy Ltd The submitter opposes Policy 4 stating that it is inappropriate to regulate the transportation of hazardous substances in the District Plan except in a very broad sense. They believe it should be made clear that the safe transportation of hazardous substances and the management of actual or potential effects of the transport of hazardous substances area addressed through other legislation and should not be achieved through controls on individual land use consents. Many transportation routes may need to be determined according to the prevailing conditions of the day. It is wrong to suggest that promoting movement of hazardous substances along main transport routes will protect the environment.</p> <p><u>Decision Sought:</u> Delete Policy 4 Transportation</p> <p>FS9.3 Ballance Agri-Nutrients Ltd supports in part Submission 13.4 noting that there are relevant Fertiliser Group Standards that it operates in accordance with. The further submitter is concerned that the Proposed Plan seeks to provide for duplication in the control and management of transportation of hazardous substances, which is otherwise managed under the Fertiliser Group Standards.</p> <p>The further submitter does not support the complete deletion of the Policy, but should</p>	<p>Decision 25/11 This submission is accepted in part.</p> <p>Amendments to District Plan</p> <p>(i) Amend Policy 4 to read:</p> <p>To encourage promote transportation of hazardous substances including wastes to be undertaken by modes and along transport routes which prevent or minimise the risk of adverse effects on <u>people, the community and the wider environment, natural and physical resources, and on other transport users, and which prevent the risk of adverse effects on human health.</u></p> <p>Explanation: <u>The Council through resource management processes cannot direct the modes or routes used for the transportation of hazardous substances. However, this can be influenced by the location of zones within which activities producing, storing and using hazardous substances are provided for, and by controls available through other legislation, for example, the Land Transport Act 1998. Co-locating industrial zones with access to heavy traffic routes and key transportation networks will encourage the transportation of hazardous substances on routes that do not pass through</u></p>

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SUBMISSION	DECISION				
<p>opportunity to store and use moderate amounts of hazardous substances.</p> <p>iii. Any similar amendments to like effect and any consequential amendments that stem from the amendment set out above.</p>					
<p>87.45 Transpower NZ Ltd Support Rules 3.7.1 and 3.7.2. Retain Rules 3.7.1 and 3.7.2 as notified.</p>	<p>Decision 25/23 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason</p> <ol style="list-style-type: none"> 1. The submitter supports the rules and does not seek any change to them. 2. As a result of decision 25/25 minor changes have been made to Rule 3.7.1 to correct an error. 				
<p>71.51 NZAS Ltd Oppose Rule 3.7.1. The regulation of hazardous substances is best left to the HSNO Act and its associated regulations. The thresholds set out in Appendix VII are inappropriate, with some levels more stringent than HSNO and others more lenient. With an impending review of HSNO the thresholds may also be out of date in the near future.</p> <p>The submitter also considers the application of 3.7.1(f) to the Seaport Zone and not the Smelter Zone is inconsistent and the requirements technically difficult. Replace 3.7.1 with the following:</p> <p>If an activity complies with the requirements below, it is a permitted activity:</p> <ol style="list-style-type: none"> (a) The activity complies with the requirements of the Hazardous Substances and New Organisms Act 1996 (HSNO), and its associated regulations; and (b) A valid Hazardous Substance Location Certificate as required by HSNO is held; and (c) The name and address of the Test Certifier issuing certificates under the HSNO regime (includes Hazardous Substance Location Certificates and various design certificates) is provided to the Council; and (d) Copies of all Hazardous Substance Location Certificates are provided to the Council. <p>FS24.18 Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd support in part submission 71.51 as the submission is consistent with recent MfE guidance that supports a move</p>	<p>Decision 25/24 This submission is accepted in part.</p> <p>Amendments to District Plan In Appendix VII Hazardous Substances:</p> <ol style="list-style-type: none"> (i) For Classification 6.7A&B Carcinogens, the value for Groups 3 and 5 read 2,000 kg not 200kg. (ii) Add a further Note as follows: <p>11. Notwithstanding the volumes set for LPG (inc. propane-based refrigerant) in cylinders in Class 2.1.1A High hazard gases the following quantity of LPG stored in cylinders up to a maximum size of 45 kg is permitted at duly authorised services stations selling fuel and associated products:</p> <table> <tr> <td>Seaport 1 and Smelter Zones</td><td>No limit</td></tr> <tr> <td>All other Zones</td><td>450 kg</td></tr> </table> <p>(ii) Include a separate column in Appendix VII listing permitted levels of hazardous substances for the Smelter Zone, as set out in Appendix 2.</p>	Seaport 1 and Smelter Zones	No limit	All other Zones	450 kg
Seaport 1 and Smelter Zones	No limit				
All other Zones	450 kg				

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<p>away from the duplication of HSNO provisions in district plans. However, the further submitter is concerned that the proposed amendments to the rule and zoning result in inconsistencies with how their oil terminal facilities are dealt with. The further submitter is concerned with the Business 2 zoning of the area adjacent to its terminal which will increase the risk profile for the terminal from permitted sensitive activities, and that any sensitive activities recognise and take into account the fact that the terminal exists and remains functionally part of the Port.</p> <p>FS11.5 HW Richardson Group Ltd support in part Submission 71.51 as it seeks to avoid duplication between the roles of agencies managing hazardous substances.</p> <p>FS34.2 ICC Environmental Health and Compliance Services opposes Submission 71.51 considering that the submission views aspects of the Plan as duplication of controls and that the plan sets strict controls on certain substances by stating that the HSNO Act has adequate control for the potential effects of Hazardous Substance management. The further submitter states:</p> <ul style="list-style-type: none"> • That the RMA can set stricter controls for Hazardous Substances (but not less) if required and be more location specific. • It is seen that the ICC and Regional Council's functions of Hazardous Substances control relate to the RMA and are similar in nature. • It could be said that the RMA is concerned with controlling the impact of release of substances to environment in <i>their region, in particular locations</i>. The HSNO Act is concerned with control irrespective of location and for their life cycle. • Hazardous Substances Rules in this Plan set controls specific to <i>our area and requirements</i>. 	<p>Reasons</p> <ol style="list-style-type: none"> 1. As discussed on pages 4 and 5 of this Decision, the District Plan cannot override HSNO but can impose more stringent controls where it is necessary to address a resource management concern, or impose no controls where it is considered that the matter is already adequately addressed by HSNO. 2. Mostly the quantity triggers set out in Appendix VII of the Plan are in excess of HSNO, sometimes the same as, and in one or two instances no threshold has been provided (e.g. for below ground petroleum storage where the Council's concerns are adequately addressed through the HSNO controls). Appendix VII does contain an error corrected by (i) above. 3. Arising from the submission of the Oil Companies it is appropriate to enable greater storage of LPG at service stations, as part of "swap and go" services. 4. The Seaport Zone has a specific function of importing and exporting goods to and from Southland and therefore needs be able to store large quantities of hazardous substances for this purpose. Rule 3.7.1(F) has been specifically included to provide for this activity. 5. The quantities provided in Appendix VII for the Smelter Zone do not reflect what is authorised on the site and as set out on page 5 it is appropriate to provide an additional provision for that Zone.
<p>88.79 Federated Farmers</p> <p>Support in part Rule 3.7.1. The submitter considers that particularly for less-sensitive areas, a permitted activity framework can operate without compromising public safety where relevant specified HSNO regulations are complied with. The submitter has suggested an additional Group Standard for inclusion as this is consistent with that used by other territorial authorities within their Hazardous Substances permitted activities framework, and has also suggested some minor wording changes to reflect the latest Environmental Protection Agency Guideline on Above-Ground Fuel Storage and the name change from FertResearch to the Fertiliser Association of New Zealand.</p> <p>Adopt the permitted activities rule with the minor amendments proposed below:</p>	<p>Decision 25/25</p> <p>These submissions are accepted.</p> <p>Amendments to District Plan</p> <p>Amend Rule 3.7.1 as follows:</p> <ol style="list-style-type: none"> (B) The storage and use of Class 3 fuels on farms over four hectares, in accordance with the Environmental Protection Agency's Approved Practice Guide for Above-ground Fuel Storage on Farms, September 2010 <u>January 2012 EPA 0135</u>. (C) The storage and use of fertiliser within the Group 4: Rural 1, Rural 2, and Airport Protection Zones <u>and Group 6: Seaport 1 Zone</u> in accordance with the: <ol style="list-style-type: none"> (a) Fertiliser (Corrosive) Group Standard HSR002569.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

2.7 HAZARDOUS SUBSTANCES¹

The manufacture, storage, use, disposal and transportation of hazardous substances is an accepted and essential part of many everyday activities in our District. However, the composition of these substances is such that they can be “hazardous” to the environment and pose threats to human health and well-being.

Hazardous substances need to be managed to ensure that the District is able to continue to produce high quality output without compromising the health and safety of the public and the District’s sensitive environments, including our rivers, streams and wetlands that are sensitive to contamination from hazardous substance spillage within their catchment.

If not managed effectively, the manufacture, storage, use, disposal and transportation of hazardous substances may pose significant threats to the environment and the health and well-being of the community. This can be caused by the accidental, unintentional or uncontrolled release of hazardous substances resulting in contamination of water, soil and air, or risk of fire and explosive events. Indirect effects also need to be managed to avoid the accumulation of substances or sediment within sensitive environments.

To manage these risks, facilities and/or sites involved in such activities are subject to controls under a variety of legislation. The Hazardous Substances and New Organisms Act 1996 (HSNO) is the main legislation that controls the lifecycle of hazardous substances.

~~The Hazardous Substances and New Organisms Act 1996 (HSNO)~~ HSNO and the RMA complement each other. The HSNO Act 1996 provides the framework for developing technical standards for the use, storage, transportation, inspection, identification and regulation of hazardous substances. The RMA outlines responsibilities councils have to control the effects of the use or development of land, and to prevent or mitigate any adverse effects that may result from the use, storage, disposal or transportation of hazardous substances. The RMA is focused on site-specific controls on the use of land and on managing the risks to the local environment. It requires councils to take an effects-based approach to managing hazardous facilities.

The Invercargill City Council and Environment Southland also share functions under the RMA for the control of the use of land with the purpose of preventing or mitigating any adverse effects of the storage, use, transportation or disposal of hazardous substances. Environment Southland controls the use of land to manage the effects of hazardous substances in the beds of lakes and rivers, and in the coastal marine area. The Council is responsible for managing the effects of hazardous substances on all other land.

The transportation of hazardous substances is controlled through the HSNO Act 1996 and the Land Transport Act 1998. It is beyond the scope of the RMA for the Council to direct the use of particular routes for transporting hazardous

¹ Decision 25/4

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

substances, however the Council is able to have input into processes and approvals under these Acts. The Council can also use education, promotion and advocacy as a means to influence the routes over which hazardous substances are transported.

~~If not managed effectively, the manufacture, storage, use, disposal and transportation of hazardous substances pose significant threats to the environment and the health and well-being of the community. This can be caused by the accidental, unintentional or uncontrolled release of hazardous substances resulting in contamination of water, soil and air, or risk of fire and explosive events. Indirect effects also need to be managed to avoid the accumulation of substances or sediment within sensitive environments.~~

2.7.1 Issues

The significant resource management issue for hazardous substances:

1. If not managed effectively ~~the~~² manufacture, storage, use, disposal and transportation and disposal³ of hazardous substances can have adverse effects on the environment and on public health and safety.

2.7.3 Policies

Policy 1 Environment: Ensure that hazardous substances are manufactured, stored, used and disposed of in a manner that avoids, remedies or mitigates adverse effects on the environment.

***Explanation:** If not manufactured, stored, used, transported or disposed of appropriately, hazardous substances can give rise to a range of adverse environmental effects. These effects can be reduced through appropriate manufacture, storage, use, ~~transportation~~⁴ and disposal practices. Particular consideration should be given to the adoption of appropriate operating procedures and systems, staff training, defined transport routes, management plans, monitoring regimes and contingency plans. Particular consideration should also be given to the provision of containment systems or contingencies to control spillage or leakage, installation of appropriate signage and separation or buffers from sensitive natural environments, areas at significant risk of natural hazards and incompatible land use activities.*

Policy 2 Public health: Ensure that hazardous substances are manufactured, stored, used and disposed of in a manner that avoids adverse effects on public health.

***Explanation:** Hazardous facilities should be designed, located, developed and operated to ensure that any adverse effects on the health and well-being of people and communities are avoided. This can be done through appropriate manufacture, storage, use, ~~transportation~~⁵ and disposal practices.*

Policy 3 Accidents: To require the establishment of facilities, systems and procedures which will ~~ensure avoidance, remediation, or mitigation~~ minimise the risk of pollution of soil, groundwater, water courses and air in the event of accidents involving hazardous substances.⁶

² Decision 25/5

³ Minor amendment made under Clause 16(2) of the RMA First Schedule

⁴ Decision 25/8

⁵ Decision 25/8

⁶ Decision 25/10

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

Explanation: *The manufacture, storage, use, transportation and disposal of hazardous substances can result in accidental discharges of the substances. It is important that systems are in place should this occur and that facilities are available to store or dispose of the hazardous substances in such a manner that will ~~not manage the potential for adversely affect effects on~~ the environment. The Council will also need to collaborate with other Local Authorities and industries and public organisations to develop and implement systems and procedures in the event of accidents involving hazardous substances.*⁷

- Policy 4 Transportation:** To encourage ~~promote~~ transportation of hazardous substances including ~~wastes to be undertaken~~ by modes and along transport routes which ~~prevent or~~ minimise the risk of adverse effects on people, the community and the wider environment, ~~natural and physical resources, and on other transport users, and which prevent the risk of adverse effects on human health.~~⁸

Explanation: *The Council through resource management processes cannot direct the modes or routes used for the transportation of hazardous substances. However, this can be influenced by the location of zones within which activities producing, storing and using hazardous substances are provided for, and by controls available through other legislation, for example, the Land Transport Act 1998. ~~Co-locating industrial zones with access to heavy traffic routes and key transportation networks will encourage the transportation of hazardous substances on routes that do not pass through more sensitive urban environments.~~*⁹

Policy 5 Other legislation:

To recognise the provisions of other legislation, such as the Hazardous Substances and New Organisms Act 1996, which manages the adverse effects of manufacture, storage, use, transportation and disposal of hazardous substances.¹⁰

Explanation: *Aspects of the manufacture, storage, use, transportation and disposal of hazardous substances are subject to management or control through various Acts, for example the Hazardous Substances and New Organisms Act 1996 and the Land Transport Act 1998, each for a different purpose. ~~There needs to be District Plan provides congruity between these and sets out the matters to which it is required to have regard under the Resource Management Act 1991. legislation passed at Central Government level, and regional and district plans.~~*¹¹

- Policy 7 Collaboration:** To develop and maintain an integrated and collaborative approach amongst Central Government, Regional and Territorial Authorities, stakeholders and landowners to the management of hazardous substances.

Explanation: Working collaboratively with Central Government, Environment Southland, stakeholders and landowners will assist in managing hazardous

⁷ Decision 25/10

⁸ Decision 25/11

⁹ Decision 25/11

¹⁰ Decision 25/11

¹¹ Decision 25/11

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

substances appropriately, minimise risks, and avoid unnecessary duplication of controls.¹²

2.7.3 Methods of Implementation

Method 6 Develop and disseminate information on good practice in storing, handling, transporting¹³ and using hazardous substances.

2.20 AIRPORT PROTECTION ZONE

Policy 14 Hazardous substances: ~~To protect the public from the effects of storage and use of excessive amounts of hazardous substances.~~ To provide for the storage and use of moderate amounts of hazardous substances, whilst protecting the public from the effects of the storage and use of excessive amounts of hazardous substances.¹⁴

***Explanation:** Some substances used in normal domestic living and rural activities are potentially hazardous. Neighbours, including the airport, are entitled to protection from hazard from the storage and use of more than domestic quantities of hazardous material.*

SECTION THREE - RULES

3.7 HAZARDOUS SUBSTANCES

3.7.1 The following activities are permitted activities:

- (B) The storage and use of Class 3 fuels on farms over four hectares in accordance with the Environmental Protection Agency's Approved Practice Guide for Above Ground Fuel Storage on Farms, ~~September 2010~~ January 2012 EPA 0135¹⁵
- (C) The storage and use of fertiliser within the Group 4: Rural 1, Rural 2 and Airport Protection Zones and Group 6: Seaport 1 Zone in accordance with the:
 - (a) Fertiliser (Corrosive) Group Standard HSR002569; and
 - (b) Fertiliser (Oxidising) Group Standard HSR002570; and
 - (c) Fertiliser (Subsidiary Hazard) Group Standard HSR002571; and
 - (d) Fertiliser (Toxic) Group Standard HSR002572, and
 - (d e) ~~FertResearch's~~ Code of Practice for Nutrient Management 2007¹⁶

¹² Decision 25/15

¹³ Decision 25/11

¹⁴ Decision 25/19

¹⁵ Decision 25/25

¹⁶ Decision 25/25

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION FOUR - DEFINITIONS

Hazardous Substance: Means

(A) any substance, or waste generated by the use of hazardous substances, with one or more of the following intrinsic properties which meets the Hazardous Substance (Minimum Degrees of Hazard) Regulations 2001¹⁷:

- (a) explosiveness
- (b) flammability
- (c) a capability to oxidise
- (d) corrosiveness
- (e) toxicity (including chronic toxicity)
- (f) ecotoxicity, with or without bio-accumulation; or

(B) any substance which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance or waste, generated by the use of hazardous substances, with any one or more of the properties specified in paragraph (A) of this definition.

¹⁷ Decision 25/31

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APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

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APPENDIX VII – HAZARDOUS SUBSTANCES

HSNO SUB-CLASS AND HAZARD CLASSIFICATION	SUBSTANCE	GROUP 1: RESIDENTIAL 1, 1A, 2, 3, AND OTATARA ZONES AND RESIDENTIAL ACTIVITIES IN ALL OTHER ZONES	GROUP 2: INDUSTRIAL 1, 4A, BUSINESS 1, 2, 3, 4, AND 5 AND 8 ZONES EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 3: INDUSTRIAL 2, 2A, 3, AND 4 AND SEAPORT 2 SMELTER ZONES, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 4 HOSPITAL ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 5: RURAL 4-2, AIRPORT PROTECTION ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 6: SEAPORT 1 ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 7: AIRPORT OPERATIONS ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 8: SMELTER ZONE, EXCLUDING RESIDENTIAL ACTIVITIES
Explosives									
1.1A – G, J, L Mass explosion hazard	Gunpowder and black powder	15kg	No threshold	15kg	0	15kg	No threshold	No threshold	No threshold
	Display fireworks	0	0	0	0	0	0	0	0
	Industrial explosives (eg TNT) and all other	0	25kg	25kg	0	25kg	No threshold	0	25kg
1.2B – L Projection hazard	All	No threshold							
1.3C, F – L Fire and minor blast hazard	Smokeless ammunition reloading powder	15kg	50kg	50kg	0	15kg	No threshold	15kg	50kg
1.3C, F – L Fire and minor blast hazard	Retail fireworks	No thresholds (refer to Hazardous Substance (Fireworks) Regulations 2001							
	All other 1.3	No thresholds							
1.4B – G, S No significant hazard	Safety ammunition and marine flares	25kg	50kg	50kg	5kg	25kg	50kg	25kg	50kg
	Retail fireworks	No thresholds (refer to Hazardous Substance (Fireworks) Regulations 2001							
	Sodium Azide	0	0	0	0	0	0	0	0
	All other 1.4	No thresholds							
Gases and Aerosols									
1.5 D Very insensitive, with mass explosion hazard	All	No thresholds							
1.6N Extremely insensitive, no mass explosion hazard	All	No thresholds							
2NH (Non-hazardous)	All	10m ³	200 m ³	200 m ³	200 m ³	200 m ³	200 m ³	200 m ³	7500m ³
2.1.1A High hazard gases	LPG (inc. propane-based refrigerant) in cylinders <u>For Service Stations refer also to Note 11.14</u>	300kg Total Storage Quantity providing indoor storage is no more than 20kg per dwelling (except for multi-storey attached dwellings of over 3 storeys where no more than 10kg per dwelling)	300kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders	300kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders	300kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders	300kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders	No threshold	300kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders	1500kg Total Storage Quantity providing indoor storage is no more than four 45kg cylinders
	LPG propane-based refrigerant in commercial refrigeration receivers	0	50kg	50kg	50kg	50kg	50kg	50kg	500kg

¹⁵ Decision 25/24

¹⁹ Decision 25/24

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HSNO SUB-CLASS AND HAZARD CLASSIFICATION	SUBSTANCE	Group 1: RESIDENTIAL 1, 1A, 2, 3, AND OTATARA ZONES AND RESIDENTIAL ACTIVITIES IN ALL OTHER ZONES	Group 2: INDUSTRIAL 1, 4A, BUSINESS 1, 2, 3, 4, AND 5 AND 6 ZONES EXCLUDING RESIDENTIAL ACTIVITIES	Group 3: INDUSTRIAL 2, 2A, 3, AND 4 AND SEAPORT 2 SHELTER ZONES, EXCLUDING RESIDENTIAL ACTIVITIES	Group 4: HOSPITAL ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	Group 5: RURAL 4-3, AIRPORT PROTECTION ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	Group 6: SEAPORT 1 ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	Group 7: AIRPORT OPERATIONS ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	Group 8: SHELTER ZONE, EXCLUDING RESIDENTIAL ACTIVITIES
2.1.1A High hazard flammable gases	LPG in single vessel tanks	0	0	0	0	0	0	0	80 tonnes
	LPG in multi-vessel tanks	0	0	0	0	0	0	0	80 tonnes
	Acetylene	1 m ³	30m ³	30m ³	30m ³	30m ³	No threshold	30m ³	400m ³
	Hydrogen, and all other permanent gases	0	30m ³	30m ³	30m ³	30m ³	No threshold	30m ³	30m ³
	Methane	0	30m ³	100m ³	30m ³	100m ³	No threshold	30m ³	30m ³
2.1.1B Medium hazard flammable gases	Anhydrous ammonia refrigerant	0	0	0	0	0	0	0	0
	All other 2.1.1B	No thresholds							
2.1.2A Flammable aerosols	All	20 litres	450 litres	450 litres	450 litres	450 litres	450 litres	450 litres	450 litres
Flammable liquids (stored above ground in containers with individual capacity ≤450 litres)									
3.1A – Liquid: Very high hazard (flash point <23°C, initial boiling point ≤35°C)	Petrol	<ul style="list-style-type: none"> • 10 litres inside dwelling • 50 litres outside dwelling (No storage in metal drums) 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores.
	All other	0	50 litres	50 litres	50 litres	50 litres	50 litres	50 litres	50 litres
3.1B Liquid: High hazard (FP <23°C, IBP >35°C)	All e.g. acetone, paint spray thinners, pure alcohol	10 litres	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. • Retail activities only – 1500 litres in containers of up to 5 litres each 						<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 4000 litres in approved HSNO 'Type' stores in containers up to 20L each.
3.1A Petrol plus 3.1B	Petrol plus any 3.1B substance – cumulative total limit	<ul style="list-style-type: none"> • 10 litres inside dwelling • 50 litres outside dwelling • (no storage in metal drums) 	<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. • Retail activities only – 1500 litres in containers of up to 5 litres each 						<ul style="list-style-type: none"> • 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 4000 litres in approved HSNO 'Type' stores in containers up to 20L each.

Note: Underline indicates additions, strikethrough indicates deletions.

HSNO SUB-CLASS AND HAZARD CLASSIFICATION	SUBSTANCE	GROUP 1: RESIDENTIAL 1, 1A, 2, 3, AND OTATARA ZONES AND RESIDENTIAL ACTIVITIES IN ALL OTHER ZONES	GROUP 2: INDUSTRIAL 1, 4A, BUSINESS 1, 2, 3, 4, AND 5 ZONES EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 3: INDUSTRIAL 2, 2A, 3, AND 4 AND SEAPORT 2 SHELTER ZONES, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 4: HOSPITAL ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 5: RURAL 4, AIRPORT PROTECTION ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 6: SEAPORT 1 ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 7: AIRPORT OPERATIONS ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 8: SHELTER ZONE, EXCLUDING RESIDENTIAL ACTIVITIES
Flammable Liquids (stored above ground in containers with individual capacity ≤450 litres)									
3.1C Liquid: Medium Hazard (FP≥23°C, but ≤61°C)	All – e.g. kerosene, aviation kerosene	• 20 litres inside dwelling • 50 litres outside dwelling	• 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. • Retail activities only – 1500 litres in containers of up to 5 litres each						• 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 4500 litres in approved HSNO 'Type' stores in containers up to 210L each.
Liquid Low Hazard (FP>60°C but ≤93°C)	All – e.g. diesel, petroleum fuel oils	• 20 Litres inside dwelling • 50 litres outside dwelling	• 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 450 litres in approved HSNO 'Type' stores. • Retail activities only – 1500 litres in containers of up to 5 litres each						• 50 litres any storage except metal drums • 250 litres in Dangerous Goods cabinet approved to AS1940 • 4500 litres in approved HSNO 'Type' stores in containers up to 210L each.
Flammable liquids (stored above ground in containers with individual capacity >450 litres) (Tanks >450 litres)									
3.1A Liquid: Very high hazard (flash point <23°C initial boiling point ≤35°C)	Petrol	0	• Certified tanks: 600 litres						
	All others	0	0	0	0	0	0	0	0
3.1B Liquid: High hazard (flash point <23°C initial boiling point ≤35°C)	All – e.g. acetone, paint spray thinners, pure alcohol	0	• Certified tanks: 600 litres						
3.1C Liquid: Medium hazard (flash point <23°C initial boiling point ≤61°C)	All – e.g. kerosene, aviation kerosene	0	• Certified tanks: 2000 litres						
Flammable liquids (stored above-ground in containers with individual capacity > 450 litres)									
3.1D Liquid: Low Hazard (flash point >60°C initial boiling point ≤93°C)	All – e.g. diesel, petroleum fuel oils	• Certified tanks: 600 litres • Certified super vault tanks constructed to South Western Research Institute (SWRI) standards: 10,000 litres	• Certified tanks: 600 litres • Certified super vault tanks constructed to South Western Research Institute (SWRI) standards: 10,000 litres	• Certified tanks: 2000 litres • Certified super vault tanks constructed to South Western Research Institute (SWRI) standards: 10,000 litres	• Certified tanks: 2000 litres • Certified super vault tanks constructed to South Western Research Institute (SWRI) standards: 10,000 litres	• Certified tanks: 5000 litres • Certified super vault tanks constructed to South Western Research Institute (SWRI) standards: 10,000 litres	• No threshold	• No threshold	No threshold
Flammable liquids (stored below-ground)									
3.1A, 3.1B, 3.1C, 3.1D	Petroleum or alcohol blend fuels	No threshold							
Flammable liquids (any storage)									
3.2A, 3.2B & 3.2C Liquid desensitised explosive: High,	All	0	0	0	0	0	0	0	

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medium & low hazard									
Flammable solids									
4.1.1A Readily combustible solids that may cause fire through friction: Medium hazard	All	0	50kg	50kg	50kg	50kg	No threshold	No threshold	No threshold
4.1.1B Readily combustible solids and solids that may cause fire through friction: low hazard	All	0	500kg	500kg	500kg	500kg	No threshold	No threshold	500kg
4.1.2A&B Self-reactive: Types A & B	All	0	50kg	50kg	50kg	50kg	No threshold	No threshold	50kg
4.1.2C-G Self-reactive: Types C-G	All	0	500kg	500kg	500kg	500kg	No threshold	No threshold	500kg
4.1.3A-C Solid desensitised explosives	All	0	0	0	0	0	0	0	0
Flammable solids									
4.2A&B Spontaneously combustible – pyrophoric substances: High hazard and self-heating substances: Medium hazard	All	0	50kg	50kg	50kg	50kg	50kg	50kg	50kg
4.2C Spontaneously combustible – Self-heating substances: Low hazard	All	0	500kg	500kg	500kg	500kg	500kg	500kg	500kg
4.3A&B Solids that emit flammable gas when wet: High and medium hazard	All	0	50kg	50kg	50kg	50kg	50kg	50kg	50,000 tonnes
4.3C Solids that emit flammable gas when wet: Low hazard	All	0	500kg	500kg	500kg	500kg	500kg	500kg	250,000 tonnes
Oxidising substances									
5.1.1A –C Liquids & Solids	All	10 litres if liquid, 10kg if solid	200 litres if liquid, 200kg if solid	200 litres if liquid, 200kg if solid	200 litres if liquid, 200kg if solid	No threshold	No threshold	No threshold	200 litres if liquid, 200kg if solid
5.1.2A Gases	Oxygen (Except as stored and used in accordance with HSNO requirements within medical facilities)	5.5m ³	200m ³	1000m ³	No threshold	200m ³	No threshold	No threshold	No threshold
	Nitrous Oxide (except as stored and used in accordance with HSNO requirements within medical facilities)	0	0	0	No threshold	0	No threshold	No threshold	No threshold
	Chlorine	0	0	0	0	0	No threshold	No threshold	2000kg

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5.2A – G Organic Peroxide Types A-G	All – e.g. MEKP Polyester resin catalyst	0.5litres	0.5 litres	16 Litres	0.5 litres	0.5 litres	No threshold	No threshold	16 litres
Toxic substances									
6.1A – C Acutely toxic	Anhydrous ammonia refrigerant	0	0	0	0	0	No threshold	No threshold	0
	Chlorine	0	0	0	0	0	No threshold	No threshold	No threshold
	All other substances	0	20 litres if liquid, 20kg if solid	20 litres if liquid, 20kg if solid	20 litres if liquid, 20kg if solid	20 litres if liquid, 20kg if solid	No threshold	No threshold	No threshold
6.1D&E	All	1kg	100kg	200kg	200kg	200kg	No threshold	No threshold	No threshold
Toxic Substances									
6.3A&B Skin irritant	All	1kg	1000kg	2000kg	1000kg	2000kg	No threshold	No threshold	No threshold
6.4A Eye irritant	Cement, Hydrated Lime and Burnt Lime	80kg	30 tonne	50 tonne	30 tonne	30 tonne	No threshold	No threshold	No threshold
	All others	1kg	1000kg	2000kg	1000kg	2000kg	No threshold	No threshold	No threshold
6.5A&B Respiratory and contact sensitisers	Cement, Hydrated Lime and Burnt Lime	80kg	30 tonne	50 tonne	30 tonne	30 tonne	No threshold	No threshold	No threshold
	All others	1kg	1000kg	2000kg	1000kg	2000kg	No threshold	No threshold	No threshold
6.6A&B Human mutagens	All	1kg	1000kg	2000kg	1000kg	2000kg	No threshold	No threshold	No threshold
6.7A&B Carcinogens	All	1kg	1000kg	2000kg ²⁰	1000kg	2000kg	No threshold	No threshold	No threshold
6.8A-C Human reproductive or developmental toxicants	All	0	0	0	0	0	0	0	No threshold
6.9A&B Substances affecting human target organs or systems	All	0	0	0	0	0	0	0	No threshold
Radioactive materials									
Class 7 These substances are controlled through the Radiation Protection Act 1965 rather than through HSNO	All	Quantities specified in the 'Type A' transport package limit as identified in the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Material. Examples: Domestic smoke detectors, demonstration radioactive sources in school laboratories.							
Corrosives									
8.1A Substances corrosive to metals	All	1 litres	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres

²⁰ Decision 25/24

Note: Underline indicates additions, strikethrough indicates deletions.

HSNO SUB-CLASS AND HAZARD CLASSIFICATION	SUBSTANCE	GROUP 1: RESIDENTIAL 1, 1A, 2, 3, AND OTATARA ZONES AND RESIDENTIAL ACTIVITIES IN ALL OTHER ZONES	GROUP 2: INDUSTRIAL 1, 4A, BUSINESS 1, 2, 3, 4, AND 5 AND 9 ZONES EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 3: INDUSTRIAL 2, 2A, 3, AND 4 AND SEAPORT 2 SHELTER ZONES, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 4 HOSPITAL ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 5: RURAL 4-9, AIRPORT PROTECTION ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 6: SEAPORT 1 ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 7: AIRPORT OPERATIONS ZONE, EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 8: SHELTER ZONE, EXCLUDING RESIDENTIAL ACTIVITIES
8.2A-C Substances corrosive to skin	Cement, Hydrated Lime and Burnt Lime	80kg	30 tonne	50 tonne	30 tonne	30 tonne	No threshold	No threshold	No threshold
	All	1 litre	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	3000 litres
8.3A Substances corrosive to the eye	Cement, Hydrated Lime and Burnt Lime	80kg	30 tonne	50 tonne	30 tonne	30 tonne	No threshold	No threshold	No threshold
	All	1 litre	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	1000 litres	3000 litres
Ecotoxics									
9.1A-D Aquatic ecotoxics and 9.2A-D Soil ecotoxics	All	See base Class thresholds NB: Where a substance requires resource consent and also has an ecotoxic class, the ecotoxicity shall be taken into consideration as part of Assessment Matter							
9.3A-C Terrestrial vertebrate ecotoxics	All	See base Class thresholds NB: Where a substance requires resource consent and also has an ecotoxic class, the ecotoxicity shall be taken into consideration as part of Assessment Matter							
9.3A-C Terrestrial invertebrate ecotoxics	All	See base Class thresholds NB: Where a substance requires resource consent and also has an ecotoxic class, the ecotoxicity shall be taken into consideration as part of Assessment Matter							

Notes:

- The above table contains maximum permitted quantity thresholds (plus, in certain cases, storage requirements) for the storage, use and management of different types of hazardous substance, as classified via the Hazardous Substance (Classification) Regulations 2001. To avoid confusion, maximum permitted means up to and equal to the quantity thresholds specified. The quantities vary according to Zone and/or activity type. Where the requirements set out in this table are not met, resource consent will be required under Rule 3.7.2 of the District Plan.
- Unless otherwise stated, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the base or primary class shall determine the maximum permitted quantity threshold. The base or primary class of a substance is the first classification listed beside any substance within New Zealand Gazette Notice No. 35, as well as in all HSNO required labelling and signage. Where the requirements set out in this table are not met, resource consent will be required under Rule 3.7.2 of the District Plan.
- The permitted quantity thresholds in the above table apply per site, except for in Group 2, 3, 6 and 7 where the permitted quantity thresholds apply per hazardous sub-facility. Where more than one activity is carried out per site or hazardous sub-facility, each hazardous sub-facility shall comply with the above table, otherwise resource consent will be required under Rule 3.7.2 of the District Plan.
- Where the volume or weight of a hazardous substance is affected by the temperature and pressure at which it is stored, the volume or weight shall be considered (for the purposes of this table) to be that present in conditions of 20°C and 101.3kPa otherwise resource consent will be required under Rule 3.7.2 of the District Plan.
- Waste hazardous substances and waste generated by hazardous substances shall be treated as if it were the original hazardous substance. The disposal of hazardous substances is adequately controlled by the Hazardous Substances and New Organisms Act 1986 and by Environment Southland and is not controlled by the District Plan.
- Where any site contains residential activity then the Residential 1, 2 and 3 Zone thresholds detailed in the table shall exclusively apply, regardless of any other activity occurring on the site except for within the Rural 1 and Rural 2 Zones, where the Residential 1, 2 and 3 Zone thresholds apply to the residential dwelling and cartilage only.
- Dwelling under HSNO includes the house and any structure attached to the house including a carport, basement garage, etc. It does include a balcony and a veranda but not a deck or patio unless roofed over.
- "Approved" means test certified as compliant with HSNO, or in some cases approved by the EPA.
- "Certified" means tanks that are issued with a Design Verification Test Certificate under HSNO by a Test Certifier if they are of a standard design e.g. service station tanks, farm tanks, etc. The Design Verification Certificate is for the EPA listed Test Certified Approved Tank Fabricator's production tanks; or, they are site built and subject to Engineer's Producer Statements – PS1 and PS4's for design, tanks slab and seismic restraint. Both construction methods are then subject to Stationary Container Systems Certificates on site by another Test Certifier.
- In addition to these District Plan rules, the provisions of other legislation may also be applicable to activities involving hazardous substances. Separate approvals may be required under the provisions of different legislation.
- Notwithstanding the volumes set for LPG (inc. propane-based refrigerant) in cylinders in Class 2.1.1A High hazard gases the following quantity of LPG stored in cylinders up to a maximum size of 45 kg is permitted at duly authorised service stations selling fuel and associated products:
Seaport 1 and Smelter Zones..... No limit

Note: Underline indicates additions, strikethrough indicates deletions.

All other Zones 450 kg²¹

Use of LPG Inside Buildings

Location	Max. Quantity of LPG	Max Size of Cylinder
A detached house or single storey attached dwelling and multi-storey attached dwelling up to three storeys	20kg per dwelling	10kg cylinder
Multi-storey attached dwellings over three storeys	10kg per dwelling	10kg cylinder
Hotels, bars, restaurants, public buildings, places of worship, shops, offices and laboratories not attached to a dwelling	10kg per 10m ² of the indoor floor area, up to a maximum total quantity of 100kg	10kg cylinder
Hotels, bars, restaurants, public buildings, places of worship, shops, offices and laboratories that are attached to a dwelling	20kg per premises	10kg cylinder
Factories and warehouses	45kg per 50m ² of the indoor floor area, up to a maximum total quantity of 180kg per occupancy	45kg cylinder

The table for the use of LPG inside buildings was included in EPA document HRC09001 – the Reassessment of LPG and LPG based refrigerants. The trigger quantities are maximums and cannot be exceeded through the resource consent process (provided for information only) as prohibited under HSNO.

²¹ Decision 25/24

Note: Underline indicates additions, strikethrough indicates deletions.



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 26

Soils, Minerals and Earthworks

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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INTRODUCTION

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this Decision we consider the submissions lodged in relation to Soils, Minerals and Earthworks.

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are Sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Report prepared for the Committee considered these matters in detail and we have had regard to them. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

"The Council" means the Invercargill City Council.

"FS" means Further Submission.

"Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

"Hearings Committee" or "the Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

"HSNO" or "HSNO Act" means the Hazardous Substances and New Organisms Act 1996.

"HWRG" means H W Richardson Group Limited.

"IAL" means Invercargill Airport Limited.

"Operative Plan" or "Operative District Plan" means the Invercargill City District Plan 2005.

"Proposed Plan" or "Proposed District Plan" means the Proposed Invercargill City District Plan 2013.

"Provisions" collectively describes Objectives, Policies and Rules.

"RMA" means the Resource Management Act 1991.

"South Port" means South Port New Zealand Limited.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

THE HEARING

The hearing to consider the submissions lodged to the matters set out in this decision was held in the Council Chambers of the Invercargill City Council on 2 March 2015.

Section 42A Report

The Hearings Committee received a report from Joanna Shirley, Policy Planner at the Invercargill City Council. In her report Mrs Shirley advised that under Part 2 of the RMA the Council is required to take measures to safeguard the life-supporting capacity of soils. She highlighted that Southland's rural land, including Invercargill, is a highly valued natural resource that underpins the region's economy and the viability of the natural and physical environment. Maintaining or enhancing soil health and carefully using land resources across

the region is in her view essential to the community's health and economic, cultural, and environmental well-being.

Mrs Shirley noted that 45 submission points and 11 further submission points were received on the Soils, Minerals and Earthworks provisions of the Proposed District Plan. Of most concern to the submitters was the inclusion of a maximum limit for earthworks permitted to be undertaken in a 12 month period. Submitters opposed the need to obtain a resource consent if earthworks exceeded the limits, which they considered arbitrary and overly restrictive in any case. Invercargill Airport Limited further submitted in opposition to a number of these submissions, raising concern of bird strike resulting from standing bodies of water in close proximity to Invercargill Airport.

Mrs Shirley in her report recommended extensive changes to the rules in response to the submitters' concerns, including the exclusion of certain activities from the maximum earthworks limits, an increase in the volume of allowable earthworks, and a new rule referring to standing bodies of water.

The Committee also received an Addendum Report from Mrs Shirley, in which she advised the Committee that a situation arising following the preparation of the original Report justified a rethink from the staff's perspective of the approach to the bulk storage and supply of cleanfill material. The definition of "earthworks" in the Proposed Plan includes the disturbance of land surfaces by the depositing of material. As a result the stockpiling of material such as soil, sand, gravel and bark chips is subject to the zone's maximum quantities, limiting the bulk storage and supply of cleanfill material. Mrs Shirley stated this was not anticipated nor intended by the rule. Arising from this she recommended additions to Rule 3.17.

Persons Attending the Hearing

Federated Farmers

Ms Tanith Robb appeared on behalf of Federated Farmers of New Zealand, reading a statement prepared by David Cooper, Senior Policy Adviser, in which he supported the change recommended to Rule 3.17.2 which provided an exemption from the maximum quantity limits for farm cultivation. He also supported the permitted activity status for farm landfills and dead holes, noting that the Regional Plan rules dealt with these effectively.

However, while the recommended increase to the allowable limit associated with borrow pit activities was considered helpful, Mr Cooper advised that Federated Farmers members still considered the level of 1,000m³ too low, commenting that doubling this was appropriate as a permitted activity. He suggested in the alternative that between one and two thousand cubic metres be a controlled activity.

Invercargill Airport Limited

Kirsty O'Sullivan of Mitchell Partnerships appeared on behalf of IAL, together with Chloe Surridge, General Manager of IAL. Mrs O'Sullivan referred to the provisions of Plan Change 10 to the Operative District Plan which provided a rule requiring consent where earthworks created standing pools of water in the Airport Protection Sub-Area. This had not been carried over to the Proposed Plan, but was now recommended for inclusion in a modified form. She advised the Committee that the inclusion of such a rule was to avoid the creation of standing water bodies that could potentially attract additional birds in and around the airport, causing a serious safety risk for aircraft.

Mrs O'Sullivan did not agree that having birds already present within the bush areas of the Otatara Zone was a valid reason not to extend any controls to that area. She noted that bird

behaviour is unpredictable and it is likely that they will fly into the flight paths of aircraft. Mrs O'Sullivan also referred in general terms to international studies which had identified a 13km distance from runways as being the critical area within which such bird risk needs to be managed.

Mrs O'Sullivan also stated that in drafting the submission for IAL she appreciated the difficulty in providing certainty as to the area the rule should apply to, and for that reason included reference to both the Airport Protection Zone and the Otatara Zone. Having regard to the international studies she saw some logic in adopting a 13km limit, but noted this included land in other zones, and as a consequence was therefore likely to be beyond the scope of the submission lodged.

Mrs O'Sullivan referred to the recommended addition of an assessment matter to accompany the proposed rule. In her view that should be included as a general matter for assessment of all earthworks applications that breach any of the specified limits.

Material Tabled at the Hearing

South Port NZ Limited

Claire Hunter of Mitchell Partnerships Limited expressed concern on behalf of South Port that the rules applying to soil disturbance and earthworks, even with the recommended changes, were overly restrictive and would impact on the day to day operations of the company. South Port sought an exemption from all of the rules, not just those applying to storage of clean fill.

In response to comments in the Section 42A Report, Ms Hunter referred to recent activities at the port as part of ongoing terminal paving, and reconfiguring hard stand areas which occurs with short notice in order to secure cargoes through the port, noting that these activities would be viewed as part of normal port activities and in most cases as temporary. She also referred to Section 17 of the RMA that imposes a duty to avoid, remedy or mitigate the adverse effects of activities regardless of whether a consent is required; and to the Regional Coastal Plan being able to respond to any deposition into the harbour that occurs.

Ms Hunter also stated that it seems inconsistent that earthworks undertaken within the Smelter Zone are permitted while those in the Seaport Zone are not. Given the significance of the port to the regional economy and the social well-being of the community, she was of the view that there should be an exemption to the earthworks rule (Rule 3.17.2) which would be consistent with the Operative Plan.

H W Richardson Group Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of HWRG that changes recommended to Objective 2.13.2.3 and Policy 2.13.3.6 and its explanation met the concern of their associated submissions. She also advised of support for the recommended changes to thresholds for earthworks in the Rural zones, but questioned why these did not apply to the Industrial 1 and 1A Zones. In her view the permitted volume should be increased to 200 cubic metres in these zones.

Mrs Dowd advised that HWRG were concerned that the limitations placed on earthworks throughout the District would have significant implications for roading projects undertaken by South Roads and sought to ensure that material associated with such roading projects was provided for as a permitted activity. The amendments to Rule 3.17.2(e) are appropriate in her view, but she noted that HWRG remains concerned that the rule will still unnecessarily restrict the bulk storage of cleanfill material on Rural zoned land. Clause (H) of Rule 3.17.2 provides for the bulk storage and supply of cleanfill material ancillary to an industrial activity

in the Industrial 2, 3 and 4 Zones to be exempt from the earthworks rule. In her view, an exemption should also apply to the Industrial 1, 1A and Rural Zones.

Mrs Dowd also indicated support in part to the reporting officer's recommended changes to the "Cleanfill" definition. However, she recommended that an additional change be made, in line with HWRG's submission, to ensure the rule is practicable. She also asked for the inclusion of a definition of "Cleanfill Site" and adoption of a definition of "Landfill" that was consistent with the Regional Water Plan.

PowerNet Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of PowerNet that the recommendation in the Section 42A Report to exempt utilities from the earthworks rule is appropriate and supported. She also added that given that recommendation PowerNet was neutral on the status of activities that do not comply with the rule.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Limitations on the Quantity of Earthworks

A number of the submitters raised concerns with regard to the introduction of maximum limits placed on earthwork activities requesting either an increase in the permitted volume or deletion of the rules altogether. Mrs Shirley in her Section 42A Report did not accept that the quantity limits should be completely deleted. She considered earthwork activities can create adverse effects on the environment such as dust, drainage, transportation and visual effects, and changes in soil profiles. She also considered that the maximum limits provide the Council with a mechanism to control these effects and to ensure that resources are managed sustainably.

Mrs Shirley accepted however that where earthworks are controlled through other processes, such as building consent, then there is no benefit in requiring any resource consent regardless of the scale of earthworks undertaken. She also agreed with the issue raised by Ballance Agri-Nutrients that site size should be taken into account when determining the volume of earthworks allowed, and recommended an increase in the allowable volume in the Rural Zones in response to a submission of Federated Farmers. At the hearing Federated Farmers and IAL spoke on this issue.

David Cooper from Federated Farmers advised that even the recommended increase to 1,000m³ was too low and 2,000m³ was more appropriate as a permitted activity. As a compromise however, he suggested that for volumes between 1,000m³ and 2,000m³ a controlled activity consent be required.

Kirsty O'Sullivan on behalf of IAL reiterated the request that a rule require consent where earthworks created standing pools of water in the Airport Protection Zone and the Otatara Zone.

Written material submitted to the hearing from Claire Hunter on behalf of South Port opposed the rules applying to soil disturbance and earthworks at the Bluff port even with the recommended changes; stating they would impact on the day to day operations of the company. South Port sought an exemption from all of the earthworks rules, not just those applying to storage of clean fill, while noting that Section 17 of the RMA imposes a duty to avoid, remedy or mitigate the adverse effects of activities regardless of whether a consent is required. Ms Hunter also stated that given the significance of the port she was of the view that there should be an exemption to Rule 3.17.2.

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of HWRG that the company was concerned that the limitations placed on earthworks throughout the District would have significant implications for roading projects undertaken by South Roads and sought to ensure that material associated with such roading projects was provided for as a permitted activity. She noted that HWRG remains concerned that the rules will still unnecessarily restrict the bulk storage of cleanfill material on Rural zoned land. Mrs Dowd also highlighted that the exemption applying to the Industrial 2, 3 and 4 Zones should also apply to the Industrial 1, 1A and Rural Zones.

Joanne Dowd advised on behalf of PowerNet that the recommendation in the Section 42A Report to exempt utilities from the earthworks rule is appropriate and supported.

In addition, the Committee noted the submission from Transpower seeking an exemption for earthworks that are of a temporary nature where reinstatement takes place, while Chorus and Spark requested removal of the limits. NZTA also sought an exemption for roading works.

In considering these submissions, the Committee had regard to the objectives and policies in the Proposed Plan which sought to maintain the productive capacity of the rural land resource, particularly where high value soils are present; and avoid, remedy or mitigate the adverse environmental effects of earthworks. The explanation of Policy 6 states *"the effects of land fill operations and significant alterations to the soil profile need to be addressed through controls"*. Rule 3.17.5 requires applications to consider potential effects of dust or noise nuisance, traffic generation, effects on natural water flows and effects on future development options. Regard is also required to be given to sites of heritage significance, outstanding natural features and landscapes and significant indigenous biodiversity but the Committee noted these are subject to other specific rules in the Plan. The Committee also noted that a management plan is referred to as part of any application but it is not mandatory. If prepared, such a plan is required to consider visual or amenity impacts of fill such as changes in landform and shading. The Section 32 Assessment also highlighted that the Plan provisions were desirable for the maintenance or improvement of soil health and to create a more pleasant environment and higher amenity values.

Having regard to these matters the Committee is satisfied that as a general principle there is justification in the adoption of rules which require resource consent approval where earthworks exceed a threshold or fail to comply with any standards in the Plan. The Committee was mindful however to avoid duplication of procedures, and in that regard agreed with Mrs Shirley that no consent under this part of the Plan should be needed where earthworks were authorised as part of a building consent which was a permitted activity under the District Plan. The Committee gave particular regard to the following statement made by Mrs Shirley in her Section 42A Report:

Earthwork activities can create adverse effects on the environment such as dust, drainage, transportation and visual effects, and change in soil profile. The maximum limits provide the Council with a mechanism to control these effects and to ensure that resources are managed sustainably.

Taking into account the submissions lodged and the provisions of Section 17 of the RMA, the Committee concluded that in relation to earthworks the adverse effects referred to by Mrs Shirley would not be of significance within the Seaport and Industrial Zones. The sustainability of the soil resource and visual impacts from earthworks are not considered relevant in these zones, and the other effects referred to by Mrs Shirley can be managed, if required, by Section 17 of the RMA. As a consequence, it considered it unnecessary to provide limits for earthworks in those zones.

APPENDIX 1 - Decisions by Submission

SUBMISSION	DECISION
2.13.1 ISSUES	
<p>58.1 Donald Moir The submitter disputes Issue 1 and considers that no evidence has been provided to support the claim that the economic well-being of the district is related to the productive capacity of its soils. The submitter notes that there are few areas of unsubdivided productive farm land close to the city, but acknowledges the presence of significant areas of open farm land between Invercargill and Bluff for which there is little or no demand for residential development. The submitter states that the boundaries of the district have been largely set to encompass the area that is more related to residential rather than agricultural land use. Remove Issue 1.</p> <p>FS4.32 Federated Farmers supports in part Submission 58.1 stating that soil type is only an indicator of the overall productivity of a farming operation. Another is the flexibility to make land use decisions in response to changing markets and input/output factors. The further submitter states that while some uses of land or changes to land use may be considered a negative effect, this should be balanced against the need to ensure that landowners have the ability to make land use decisions in response to the pressures of farming, and to make decisions that reflect constantly changing economic pressures.</p>	<p>Decision 26/11 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason High value soils are capable of being used intensively to produce a wide variety of crops, including arable crops, which contribute to the overall productivity of land. The northern area of Invercargill contains high value soils, requiring protection to preserve their character and productive capability. As high value soils are limited and comprise such a small proportion of the District's soil resource it is important that these are maintained and protected for future generations. Various studies throughout New Zealand have demonstrated the importance of soil dependent industries on the economic wealth of the country, which rely on the productive capability of the land.</p>
2.13.2 OBJECTIVES	
<p>88.5 Federated Farmers Oppose Objective 1. The submitter believes that soil resource management is better addressed by those managing the land than through further regulatory protection. Amend the wording of the Objective as follows: <u>Landowners are encouraged to manage Invercargill's soils are managed sustainably.</u></p>	<p>Decision 26/12 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> Both regulatory and non-regulatory methods are important to ensure that soils are managed sustainably. The wording as notified is appropriate at an objective level. Policy 1, which supports this objective, promotes a non-regulatory approach that seeks to promote sustainable soil and land use development, and management practices. Rules also apply, providing a mix of methods of implementation.

APPENDIX 1 - Decisions by Submission

SUBMISSION	DECISION
<p>77.38 Te Runaka o Waihopai and Te Runaka o Awarua Support Objectives 2 and 3 in part. The submitter considers that there is a need to consider public health effects. Add reference to "and public health effects"</p> <p>90.7 H W Richardson Group Ltd Support Objective 3 in part. The submitter considers it appropriate to enable potential adverse effects of earthworks to be avoided, remedied or mitigated. Retain Objective 3.</p>	<p>Decision 26/13 These submissions are noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason 1. The submitters support the objective. 2. The RMA requires consideration of effects on the environment, and that is defined to include people and communities. Issues of public health are included as part of that, and as a consequence inclusion of reference to "public health" is not required.</p>
2.13.3 POLICIES	
<p>88.6 Federated Farmers Support Policy 1. The submitter believes the most efficient and effective role for Council is in the provision of information to landowners to meet the aims set out in this policy, and to promote the underlying values identified for the soil types within the District boundaries. Land owners can then make fully informed land use decisions based on the information provided and the economic and or environment pressures they are faced with. Adopt the policy as proposed.</p>	<p>Decision 26/14 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports the provision and seeks no change to it.</p>
<p>58.2 Donald Moir The submitter opposes Policy 3. They consider that the majority of those areas containing Versatile Soils is already heavily subdivided, and disagrees that there is a need to protect these soils for the production of food. Remove Policy 3.</p>	<p>Decision 26/15 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason As noted in Decision 26/11, as high value soils are limited and comprise such a small proportion of the District's soil resource it is important that these are maintained and protected for future generations.</p>

APPENDIX 2 - Amended District Plan Provisions

SECTION TWO ISSUES, OBJECTIVES AND POLICIES

2.13 SOILS, MINERALS AND EARTHWORKS

...

The District's soils range from Class 2 to Class 5. Class 2 arable horticultural soil was the most versatile soil found in the District by the McIntosh study. These soils are delineated on the District Planning Maps as high value soils.¹

...

Some rural areas within the District have a history of problems with on-site wastewater disposal. These areas generally include areas with poor draining soils and a higher density of residential activity than other rural areas. On-site wastewater disposal system failures can have adverse impacts on the amenity of these areas ~~and~~, the public health of residents, and the health, life supporting capacity and productive value of the soil.²

2.13.3 Policies

Policy 2 ~~Versatile~~ High Value Soils: To identify the ~~versatile~~ high value soils of the District and to delineate these on the District Planning Maps.³

***Explanation:** ~~The versatile soils~~ District's high value soils are particularly important because they comprise such a small proportion of the soil resource of the District.*

Policy 3 ~~Protection for Versatile~~ High Value Soils: To protect the District's ~~versatile~~ high value⁴ soils from the expansion of urban development ~~over the district's versatile soils~~.⁵

***Explanation:** ~~The district does not have high quality soils but there are areas of highly versatile soils, particularly to the north, that are an important resource that should be kept available for the production of food. The District's versatile soils are an important resource that should be kept available for the production of food. Urban expansion typically reduces versatile soil stocks either by reducing the total area or impairing the remaining soils. Such changes are effectively irreversible, because top soils can take thousands of years to develop.~~*⁶

Policy 5 On-site wastewater disposal: To require that on-site wastewater disposal systems are designed for the specific conditions of the subject site and to encourage the ongoing maintenance of these systems.⁷

***Explanation:** Appropriate design, siting and operation can minimise the risks to people and the environment of malfunctioning or poorly maintained on-site wastewater systems.*

¹ Minor amendment made under Clause 16(2) of the RMA First Schedule

² Decision 26/10

³ Decision 26/8

⁴ Decision 26/8

⁵ Decision 26/16

⁶ Decision 26/8

⁷ Decision 26/6

APPENDIX 2 - Amended District Plan Provisions

Policy 6 Filling and recontouring: To control land use activities and development which propose to fill or recontour land, or move or remove significant quantities of soil.

***⁸Explanation:** Some modification of the landscape is inevitable in order to provide safe and stable building platforms and roads with a suitable gradient. Earthworks can therefore be necessary for land and economic development within the District. These activities can, however, give rise to adverse environmental effects and, therefore, ~~The~~ the effects of land fill operations and significant alterations to the soil profile need to be addressed through controls in order to avoid adverse effects on the environment and public health.*

2.12.4 Methods of Implementation

Method 6 Consult and collaborate⁹ with landowners and occupiers, iwi, other councils, Central Government and other organisations, internal Council departments and local community and business groups.

Method 10 Initiate environmental advocacy for the ongoing maintenance and care of on-site wastewater disposal systems.¹⁰

2.14 SUBDIVISION

Objective 3: Subdivision and development preserves the productive capability of rural land and versatile high value¹¹ soils.

SECTION THREE RULES

3.17 SOILS, MINERALS AND EARTHWORKS

¹²Earthworks and Mineral Extraction ~~Filling Activities~~

3.17.1 Rules 3.17.2 – 13.17.8 do not apply to:

- (A) Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.
- (B) The movement, deposition or removal of material when it is a necessary consequence of building a structure for which a building consent has been obtained on that site.
- (C) The movement, deposition or removal of material for the purposes of work in compliance with Council's Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure.

⁸ Decision 26/18

⁹ Decision 26/5

¹⁰ Decision 26/6

¹¹ Decision 26/6

¹² Decision 26/23 replaces section 3.17 in its entirety unless otherwise stated.

APPENDIX 2 - Amended District Plan Provisions

(D) The movement, deposition or removal of material for the purpose of forming hard surfaces such as accessways and paths.

(E) The cultivation of land.

(F) The construction, maintenance and upgrading of utilities as provided for by Rule 3.9 Utilities¹³

3.17.2 Subject to Rule 3.1 Biodiversity, Rule 3.3 Contaminated Land, Rule 3.8 Heritage, Rule 3.9 Utilities, Rule 3.10 Natural Features, Landscapes and Townscapes, Rule 3.12 Natural Hazards and Rule 3.17.3 it is a permitted activity to undertake the following earthwork activities:

(A) Activities associated with the construction, operation, maintenance, repair and upgrading of utilities not provided for by Rules 3.17.1(C) and 3.17.1(F).

(B) The excavation, stockpiling and use of material from a borrow pit.

(C) The construction and operation of dead holes and farm landfills.

(D) All other earthworks provided that the quantity of earthworks undertaken in a 12 month period shall not exceed:

(a) 50m³ per site up to 1000m², plus 50m³ for every additional 1,000m² or part thereof, thereafter, in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4, 5 and 6, and Otatara Zones.

(b) 2,000m³ per site in the Rural Zone.

(c) 1,000m³ per site in all other zones.

3.17.3 The following conditions apply to the permitted activities in Rule 3.17.2:

(A) Within the Rural Zone no more than 50m³ shall be deposited onto, or extracted from, land containing high value soils, as shown on the District Planning Maps

(B) Within the Airport Protection Zone or the Otatara Zone no earthworks shall result in standing bodies of water greater than 10m² in area.

3.17.4 It is restricted discretionary activity to undertake earthwork activities that do not comply with Rule 3.17.3(A).

The matters over which the Council shall exercise its discretion are:

(A) The depth and volume of material deposited on the land and its effect on the sustainability of the soil resource.

(B) Any effects on the future use of the land.

(C) The management of dust and noise.¹⁴

¹³ Decision 26/24

¹⁴ Decision 26/31

APPENDIX 2 - Amended District Plan Provisions

(D) Provision to be made for the rehabilitation of the land.

3.17.5 It is restricted discretionary activity to undertake earthwork activities that do not comply with Rule 3.17.3(B).

The matters over which the Council shall exercise its discretion are:

(A) Any effect on the operation of Invercargill Airport and the movement of aircraft to and from the airport resulting from the congregation of birds on the land.

(B) Methods to avoid, remedy, or mitigate potential conflict with the safe and efficient operation of aircraft.

Any application submitted under this rule shall include details of consultation undertaken with Invercargill Airport Limited and its outcome.

3.17.6 It is a non-complying activity to:

(A) Establish and operate a landfill.

(B) Undertake activities to extract minerals from the ground, except where provided for by 3.17.2(B).

3.17.7 It is a discretionary activity to undertake earthworks not provided for by Rules 3.17.2 to 3.17.6.

3.17.8 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:

(A) An assessment of the following:

(a) The nature and volume of any fill or extracted material proposed.

(b) The effects on the sustainability of the soil resource.

(c) Potential effects of dust and noise, including traffic to and from the site and machinery on the site.

(d) The location and standard of any access to or egress from the site which is proposed to be used and any upgrades proposed, including on the adjoining roading network.

(e) Effects on natural water bodies and established drainage networks.

¹⁵(f) Any effect on sites of:

(i) heritage and/or archaeological significance, and cultural importance to Iwi listed in Appendix II;

¹⁵ Decision 26/4

APPENDIX 2 - Amended District Plan Provisions

(ii) outstanding natural features and landscapes and/or significant indigenous biodiversity shown on the District Planning Maps.

(g) Any effect on the future development potential of the land.

(B) A management plan which considers:

(a) Where filling is proposed:

(i) The methods proposed to ensure that inappropriate material is not deposited on the land.

(ii) Proposals to monitor the filling operation.

(b) Site rehabilitation, including its timing and any proposed landscaping.

(c) Proposals for ongoing monitoring of the site.

3.38 RURAL 4 ZONE

3.38.11 Applications under Rules 3.38.9 and 3.38.10 above shall address the following matters, which will be among those taken into account by the Council:

(I) the ability to provide for on-site sewage treatment and disposal on the site.¹⁶

SECTION FOUR DEFINITIONS

Borrow Pit: Means the excavation and stockpiling of material from the ground for use on the property on which it is extracted. This excludes the extraction of minerals (other than industrial rock and building stones) or other such processes, without undertaking any extraction of minerals or other such processes, on the property on which it is extracted.¹⁷

¹⁸**Cleanfill:** Means material that when buried will have no adverse effect on people or the environment. Cleanfill material includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:

- Combustible, putrescible, degradable or leachable components
- Hazardous substances
- Products or materials derived from the treatment, stabilisation or disposal of hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices
- Materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances
- Liquid waste.

Dead Hole (Offal Pit) Means a hole excavated on a rural property to be used only for the purpose of disposing of dead animal or plant matter generated on that property.¹⁹

¹⁶ Decision 26/5

¹⁷ Decision 26/25

¹⁸ Decision 26/34

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Earthworks: Means the disturbance of land surfaces by the removal or ~~depositing~~ deposition of material, excavation, filling or the formation of roads, banks, tracks. "Earthworks" includes preparing the ground for building foundations or service trenches. ~~It "Earthworks" does not include the cultivation of farm land or the digging of holes for the erection of posts, planting of trees or other vegetation, or the cultivation of farm land.~~ ²⁰

Farm Landfill: Means a landfill located on a rural property used to dispose of household waste generated on that property. It does not include the disposal of any hazardous waste, dead animal material or any waste generated from any industrial or trade process on that property. ²¹

High Value Soils: Soils identified as Class 2 arable horticulture in the PD McIntosh and J R F Barringer's study *Classification of Land for Horticulture, Forestry and Urban Use in Invercargill City*. These soils are known to be highly productive and suitable for multiple uses such as growing a wide range of crops, pasture and forest and of high versatility for pastoral farming. ²²

Industrial Rocks and Building Stones: Includes aggregate, basalt, diatomite, dunite, granite, limestone, marble, perlite, pumice, sandstone, serpentine, slate, sand and gravel. ²³

Landfill: Means a site used for the deposition of solid waste, including material that does not meet the definition of "cleanfill", on to or into land. This excludes farm landfills and dead holes. ²⁴

Mineral: Means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945. ²⁵

Mineral Extraction: Means to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral, for the purpose of obtaining the mineral or chemical substance; but does not include prospecting or exploration; and "to mine" has a corresponding meaning. ~~Mining includes quarrying but does not include extraction from borrow pits.~~ ²⁶

Site: An area of land which is composed of one allotment in one Certificate of Title or two or more contiguous allotments held together in one or more Certificates of Title in such a way that the allotments cannot be dealt with separately without the prior consent of the Council. ²⁷

¹⁹ Decision 26/25

²⁰ Decision 26/25

²¹ Decision 26/25

²² Decision 26/8

²³ Decision 26/25

²⁴ Decision 26/25

²⁵ Decision 26/25

²⁶ Decision 26/25

²⁷ Decision 26/23

APPENDIX 2 - Amended District Plan Provisions

PLANNING MAPS

- Remove filled land data from the District Planning and Hazard Information Maps.²⁸
- Change legend and any references to “versatile soils” to “high value soils”.²⁹

OTHER

The term “versatile soils” throughout the Plan is replaced with “high value soils”.³⁰

²⁸ Decision 26/7

²⁹ Decision 26/8

³⁰ Decision 26/8



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 22

Seaport Zone

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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INTRODUCTION

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this decision we consider the submissions lodged in relation to the Seaport Zone.

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are Sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Report prepared for the Committee considered these matters in detail and we have had regard to those matters. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

"The Council" means the Invercargill City Council.

"FS" means Further Submission.

"Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

"Hearings Committee" or "Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

"The Oil Companies" means Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd.

"Operative Plan" or "Operative District Plan" means the Invercargill City District Plan 2005.

"Proposed Plan" or "Proposed District Plan" means the Proposed Invercargill City District Plan 2013.

"RMA" means the Resource Management Act 1991.

"South Port" means South Port NZ Ltd.

"South Port" means South Port New Zealand Limited.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

THE HEARING

The hearing to consider the submissions lodged to the matters set out in this decision was held in the Council Chambers on 10 - 11 November 2014.

Section 42A Report

The Committee received a report from William Watt of William J Watt Consulting Ltd. In his report, Mr Watt highlighted that the aerial extent of the Seaport Zone was reduced from that of the Seaport Sub-Area in the Operative District Plan to exclude land east of the Island Harbour bridge between Gore Street and the harbour waters. The land was rezoned as a consequence of a tsunami risk study carried out for the smelter area of Tiwai Peninsula which suggested a high risk to parts of Bluff as well. Mr Watt also suggested that the rezoning was undertaken to provide a more attractive outlook from nearby residential land, and assist in improving linkages to the coastal margins.

It was the view of Mr Watt that the Council should undertake a risk assessment for Bluff to natural hazards, in particular tsunami. He added that a plan change may then be required with particular reference to the zoning of the Industrial 1A land and the range of activities appropriate within that area. He considered it premature at this time to simply extend the Seaport Zone over the area covered by the Industrial 1A Zone.

Mr Watt also recommended the addition of "fish processing" and "freight depot" to the list of permitted activities in the Seaport Zone, recognising that these activities are currently undertaken within the Zone.

Submitters Attending the Hearing

South Port

John Kyle, planning consultant and partner at Mitchell Partnerships, appeared together with Hayden Mikkelsen, the Infrastructure and Environmental Health and Safety Manager at South Port.

Mr Kyle presented written evidence in which he gave an overview of the activities of South Port and their significance regionally and nationally, and stated that with the exception of matters referred to in the evidence South Port supported the recommendations in the Section 42A Report.

Mr Kyle advised the Committee that what was of most concern to South Port was the introduction of the Industrial 1A Zone and the narrow range of activities provided for in it. In particular, heavy industry is non-complying and activities other than those which are permitted or non-complying are discretionary. It is his view this does not provide for the future operational requirements of the Port, nor recognise the flexibility needed to support activities undertaken on the Island Harbour which has very little capacity left. As an example, Mr Kyle referred to the temporary storage of logs on land proposed to be rezoned, an activity that has been undertaken periodically for a number of years.

Mr Kyle considered the restriction on the times when activities in the Industrial 1A Zone were permitted did not recognise the need for 24 hour operation by the port. As a consequence, he did not support adding to the list of permitted activities in the Industrial 1A Zone, rather he considered it appropriate to rezone the land to Seaport, much of which is owned by the company.

Mr Kyle did not agree with the view of Mr Watt with regard to natural hazards risk, referring to the NZ Coastal Policy Statement Policy 9 which recognises the strategic importance of ports and the need to provide for their efficient and safe operation. In his view these operational matters overrode issues such as coastal hazards and the provision of public access. Nor did he accept that rezoning would reduce the barrier experienced by people seeking to get to the coastal margins, as the main highway and railway, together with any development regardless of zoning, will provide an impediment in any case. Mr Kyle also stressed that there were no physical features that justified retention of views through the land by nearby residents.

Mr Kyle referred to submissions seeking expansion of the activities permitted in the Seaport Zone, stating that more than loading and unloading of ships occur. He referred to the commercial and industrial activities that support the ongoing and efficient operation and use of the port, such as warehousing, engineering facilities and fuel depots. He also considered the Seaport Zone as entirely appropriate for commercial and/or commercial recreational

activities which facilitate recreation and tourist activities within the coastal environment, given the presence of the Bluff moorings and the Stewart Island ferry, which uses the existing wharf off Foreshore Road. Mr Kyle also noted that as a result of recommendations on other submissions it would appear that infrastructure would not be permitted in the zone and he considered this an essential adjunct to the port activities.

Finally, Mr Kyle referred to the recommended new policy referring to reverse sensitivity effects, noting that this will not have the intent of what was sought. He requested that a new policy be included as sought in the South Port submission.

Mr Mikkelsen made an oral presentation referring to the growth that had occurred in port activities at Bluff in recent years, and stressing the need for a flexible approach to be provided to avoid a requirement to obtain consent for normal operations of the company. He also referred to the associated companies that had established various operations on the port land, including the maintenance services of Real Journeys and the storage facilities of various oil companies. In his view these activities were appropriate to the location and assisted in port users operating efficiently. Mr Mikkelsen also noted that scope was needed for future new activities, for example, servicing oil and gas exploration in the Great South Basin.

Material Tabled at the Hearing

The Oil Companies

Karen Blair of Burton Consultants forwarded written evidence on behalf of the Oil Companies indicating that while her clients supported the presentation to be made by South Port there were additional matters they wanted to raise, in particular:

- The Section 42A Report gives insufficient regard to the functional dependency of port related activities and the need for them to be located proximate to the port.
- Policy 9 of the NZCPS clearly supports retaining the full extent of the port related activities.
- The proposed zoning is contrary to Objective 1 of the Zone which stresses the importance of a viable seaport.
- The Seaport zoning does not permit terminal facilities, while the Industrial 1A Zone has limits on hours of operation. The rezoning therefore is not an efficient use of the land.
- The rezoning of the land which contains a range of port related activities will not improve linkages in a manner described in the Section 42A Report.

The Oil Companies supported a submission seeking amendment of Policy 2.42.3.4 Glare. Ms Blair considered that the amendment recommended did not give effect to the further submission lodged in that requiring freedom from glare is a high test with zero tolerance, and referring to "avoid, remedy or mitigate" provides little guidance. She asked that the latter part of the policy refer to "minimising the potential for nuisance from glare on nearby residential areas".

Similarly, Ms Blair advised that the new policy recommended on reverse sensitivity did not give effect to the submissions lodged in that sensitive activities could inappropriately constrain seaport activities and activities such as the terminal facilities which are already constrained by nearby inappropriate activities. The Committee was invited to include a further clause in the policy to the effect of "protecting Seaport Activities from sensitive activities that are vulnerable to a range of adverse effects generated within and from the Seaport Zone".

Ms Blair attached a table to her statement commenting on each of the further submissions lodged by the Oil Companies. Other than referred to above these generally indicated acceptance of the changes recommended.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Risk Assessment by Council

Mr Watt in his Section 42A Report recommended that the Council engage a suitably qualified expert to undertake investigations of the risk of natural hazards, and in particular tsunami, impacting upon the Bluff area. That recommendation arises as a consequence of a study undertaken for the NZ Aluminium Smelter which highlighted risks to Bluff from natural hazards.

The Committee noted the request of Mr Watt. The issue raised however was one that extended beyond the scope of the current District Plan process, and which had wider implications for the Council and the people of Bluff. However, the organisation with most interest in this matter is South Port and the Committee expects that it has considered the Report prepared for NZAS and if any action is to be taken in the short term then South Port is the body to lead that in collaboration with Environment Southland and the City Council. The Committee therefore concluded that the request was beyond the scope of matters it could act on. If Council staff consider further action is required then it is an issue that should be raised by way of a formal report to Council, preferably at the time of preparing the Council's Annual Plan.

Reverse Sensitivity

South Port in Submission 24.59 has requested an additional policy to ensure that reverse sensitivity effects on port operations are avoided or minimised as far as is practicable. South Port states that such a policy is necessary to also provide for the existing and future growth of the Port facilities. The submission is supported by the Oil Companies.

Mr Watt in his Section 42A Report recommended that the original submission be accepted in part by the inclusion of a new policy worded differently to that sought. Mr Kyle expressed the view that the recommended policy will not have the intent of what was sought. He requested that a new policy be included as sought in the South Port submission. This was supported by the Oil Companies which sought the addition of a further clause as well.

The Committee agreed that it was appropriate to include a new policy referring to the potential for reverse sensitivity effects. However, it was concerned that such a provision could be used to frustrate the establishment of activities which are permitted by the rules of the zone in which they are locating. For example, it would not be appropriate to exclude residential activities from land zoned for such a purpose. It is for the District Plan to determine the appropriate activities that may establish in each zone.

The Committee accepts however that the amenity experienced within the residential areas in close proximity to the port can be impacted upon from time to time by port activities, and persons moving into those areas should be aware of that. In the same way that people within the area affected by aircraft noise (Outer Control Boundary) are to be given advice and recommended to acoustically insulate buildings within which noise sensitive activities are undertaken, the Committee considers the same should apply to the affected area at

Bluff. That requires identification of the affected area in the first instance and advice to landowners thereafter. A policy to this effect has been included in the revised provisions.

The Committee also reached the view that in considering any application for an activity to locate out-of-zone within the environs of the port area then regard should be given to any reverse sensitivity effects that could arise. The Committee accepted the point made by the Oil Companies that such effects are potentially more than noise and odour. For example, vibration and glare may also be relevant considerations.

With regard to South Port submission 24.59, it was the view of the Committee that the operation of the port was already provided for in Policy 1, and having regard to the discussion above, and the matters raised by the Oil Companies, a more generic approach should be adopted than sought in the bullet point (a). Bullet point (b) referred to the provision of a buffer, and in the Committee's view that relates to the zoning of the land and the activities that are permitted. The Committee did not see a need for this to be included as part of a policy, and indeed saw it as a justification to retain and expand the proposed Industrial 1A zoning over some of the operational port area. Bullet point (c) relating to future expansion goes beyond the reverse sensitivity issues and gives rise to a wider range of considerations than can be considered as part of the current review.

The Oil Companies suggested a further bullet point for a new policy and the Committee considered the revised policy in Decision 22/10 provides for that.

Scope of Activities Allowed in the Seaport Zone

South Port in Submission 24.66 notes that the list of permitted activities has been reduced from what is within the Operative District Plan for activities permitted within the existing Seaport Zone. South Port considers that infrastructure, commercial and industrial activities (both heavy and light) also need to be provided for within the zone as they currently exist there and are likely to expand in the future. It argues that restricting these uses will severely compromise the operational viability of the Port. It also requests that Commercial Recreational Activities and Reserves also be permitted.

Mr Watt in his Section 42A Report recommended that "fish processing" be added to the list of permitted activities for the Seaport Zone and "freight depots" be included as part of the definition of "Seaport Activities". He also recommended additions to the Introduction to the Seaport Zone in Section 2.42 of the Plan.

Mr Watt considered that commercial activities beyond those directly related to Seaport activities would not be appropriate within the port area. Equally he opposed provision of heavy industry as a permitted activity in a zone because of its vulnerability to natural hazards. He considered it reasonable for all industrial activities in the zone to be a discretionary activity and that would enable any functional need for a coastal location to be considered. He also noted infrastructure is subject to Rule 3.9 and it is a permitted activity in the Seaport zone.

At the hearing, Mr Kyle on behalf of South Port stated in response to the Section 42A Report comments:

- 2.27 In my opinion, this shows something of a fundamental misunderstanding of the types of activities that occur within Port facilities (i.e. limiting this to the loading and unloading of goods and materials to and from ships and boats). Many commercial and industrial activities support the ongoing and efficient operation and use of the port, such as warehousing, engineering facilities and fuel depots. This is a common situation at all commercial ports in New Zealand.

It is therefore essential that these services continue to be appropriately provided for within the Seaport Zone.

- 2.28 Applying a wider purview, the Seaport Zone is also an entirely appropriate location for commercial and/or commercial recreational activities which facilitate recreation and tourist activities within the coastal environment given the presence of the Bluff moorings and the Stewart Island ferry, which uses the existing wharf off Foreshore Street.

The Committee readily accepted the argument by the submitters that the range of activities provided for within the Seaport Zone was narrow and did not adequately provide for many of the activities currently undertaken there. In particular, the Committee accepted that provision was required for those activities that provide support to the main function of the port to provide for the efficient movement of goods and people. Consistent with Policy 9 of the New Zealand Coastal Policy Statement, the Committee did not consider the risk of natural hazards as a matter that should constrain activities within the Bluff port as promoted by Mr Watt in his Section 42A Report, given its presence and scale already in the area, but it did recognise the potential impact of port activities on nearby residential areas. In that regard there is a direct relationship between the activities provided for in the Bluff port and the extent of zoning providing for port activities, which is considered below. The Committee was also mindful that all of the land within the "Island Harbour", and much of the remaining land within the notified Seaport Zone and adjoining Industrial 1A Zone, was owned by South Port. As a consequence, it was highly unlikely that South Port would enable the long term occupation of this land by activities unrelated to the port. For, as noted in evidence presented at the hearing, there is a threat of a shortage of land for port related activities.

In considering the range of activities that should be provided for within the Seaport Zone, the Committee was mindful of the activities permitted in the Industrial 1A Zone. These are Essential services; Light industry; Motor vehicle sales; Takeaway food premises not exceeding 150 square metres and Land transport facility. Other than motor vehicle sales, the Committee considered these activities compatible within the entire port area, noting in particular that light industry was included, and through Decision 36 the restrictions on hours of operation and site size had been removed from the definition of light industry and associated rules.

A more difficult decision for the Committee was whether to enable heavy industry to locate within the Seaport Zone. The Committee considered that heavy industry could be located on the Island Harbour at Bluff without giving rise to adverse effects on the nearest residential land, but it was concerned with the location of such a use within that part of the Seaport Zone on "the mainland". The approach in the Proposed Plan seeks to provide a "good" separation between heavy industry and residential areas, but recognising existing uses and the nature of the area, it considered heavy industry should be a discretionary activity within that area. Given this, the Committee believe that there is a need to identify those areas where heavy industry is allowed and those where these types of activities require further consideration. The Committee has decided to reconfigure the zoning of the land that was notified as Industrial 1A and Seaport.

The Committee concluded that activities allowed within the area identified as Industrial 1A, excluding motor vehicle sales, were also appropriate within the land identified as the Seaport Zone and that "fish processing" should also be enabled within the Industrial 1A zone area. Therefore, these activities should be permitted on all of the land identified as the Seaport and Industrial 1A Zones.

It is appropriate that that land known locally as the Island Harbour is zoned for the full range of Seaport and industrial activities. This land is separated from the residential and business

zones. It is land that has been purpose built for these types of activities. While there may be natural hazards risks, this land has a history of use for these activities and there is a functional need for this range of activities to be carried out there, particularly due to the location in relation to the Harbour.

The Committee considered that the area of land located to the landward side of the Island Harbour, that was zoned Industrial 1A and Seaport in the Proposed District Plan, is different. This land is located closer to the residential and business areas of Bluff, and the Committee felt that there was a need to manage heavy industries in this environment. Rather than retaining the two zones, the Committee has decided that this land be amalgamated into one zone called the Seaport 2 Zone. The range of uses allowed in the Industrial 1A Zone was too narrow having regard to the location of the land immediately adjacent to the port of Bluff, land ownership, the zoning in the Operative District Plan, existing uses and its physical characteristics. A new Seaport Zone would broaden the range of activities permitted. As well as the activity status for heavy industry and motor vehicle sales, given the location of this area in relation to the Bluff township and the community's concerns over the links between the township and the coast, it is appropriate to differentiate this area from the Seaport 1 Zone through controls over the height of structures, and to introduce different standards for the management of hazardous substances.

South Port sought through their submissions for "commercial activities" to be permitted in the Seaport Zone. The Committee noted that "commercial activities" are not provided for in the Proposed Plan as a standalone use, rather these activities are dealt with in component parts, such as retail sales, supermarkets etc. As a consequence, it would be inconsistent with the provisions of the Proposed Plan to include this term in either Seaport Zone. In any event, the Committee considered that there was no functional need for standalone commercial activities, other than takeaway premises, to be provided for within these Seaport Zones. The Proposed Plan has adopted a centres-based approach for business activities and promotes the location of commercial activities within the Business Zones.

In summary, the land previously zoned Industrial 1A and the Seaport zoned land to the landward side of the Island Harbour is to be amalgamated into a new Zone called the Seaport 2 Zone. In this Zone the range of permitted activities will be expanded to include activities such as seaport activities, light industry and fish processing. There will be controls over the height of structures. The Island Harbour will be zoned Seaport 1. The range of activities will be similar to the Seaport 2 Zone, although heavy industry will also be permitted. There are fewer controls on hazardous substances and no environmental standards in terms of height of structures. The noise provisions for the notified Seaport Zone will apply to both the Seaport 1 and Seaport 2 Zones. Existing use rights would continue to apply to existing legally established activities.

The Committee noted that "infrastructure" as referred to by the submitters is considered in separate provisions in the Proposed Plan. As a consequence, it did not need to be provided for in the Seaport Zone.

SECTION 32 MATTERS

Requirements

The Committee was advised by Mr Watt that Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan, and that a Report was released at the time of notification of the Proposed Plan in compliance with those provisions.

The Committee was also advised that 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, with the detail of the assessment corresponding with to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the changes made to the Proposed Plan.

As the Committee understands its obligations, it is required to:

- (i) Assess any changes made to objectives to determine whether they are the most appropriate way to achieve the purpose of the RMA.
- (ii) Examine any changes made to the policies and rules to determine whether they are the most appropriate way to achieve the objectives of the Proposed Plan. This includes:
 - Identifying 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)
 - Identifying other reasonably practicable options for achieving the objectives; and
 - Assessing the efficiency and effectiveness of the provisions in achieving the objectives.

The Committee however, is not required to assess in accordance with Section 32 of the RMA any changes to the issues and/or explanatory text of provisions.

Assessment

Mr Watt advised the Committee that the “Seaport” section of the original Section 32 report (pages 237 - 241) is relevant and the changes he recommended are within the scope of the original evaluation findings and do not raise any additional matters for consideration.

Where this decision reflects Mr Watt’s recommendations, the Committee agrees with that approach and adopts the previous evaluations. However, there are a number of changes in this decision that have not been evaluated under Section 32 in previous reports. These changes include the following:

- Introduction of 2.42.3 Policy 12 – Reverse sensitivity.
- Amendment to Rule 3.40.1 Permitted activities – the inclusion of a number of permitted activities in the Seaport 1 Zone.
- Removal of the Industrial 1A Zone and the introduction of the Seaport 2 Zone.

Introduction of 2.42.3 Policy 12 – Reverse Sensitivity

Mr Watt recommended that a policy on reverse sensitivity be introduced to the Seaport provisions in response to a submission from South Port NZ Ltd (Submission 24.59). The differences between the recommended policy and the policy introduced by this decision are relatively minor in that both recognise that seaport activities can generate adverse effects and that reverse sensitivity effects are a valid consideration. The approach to the reverse sensitivity effects in this decision is different to that promoted by Mr Watt, placing more responsibility on the affected parties outside the seaport zones to address the adverse effects. Essentially the differences are of such a minor nature that it is not necessary or practical to evaluate in detail or quantify the economic, social, cultural, environmental and employment effects of the changes.

APPENDIX 1 - DECISIONS BY SUBMISSION

Submission	Decision
GENERAL ISSUES	
<p>24.1(a) South Port NZ Ltd</p> <p>Section 2: The submitter does not consider that the more general objectives and policies within the Proposed Plan that relate to infrastructure and transportation provide adequate and appropriate recognition of the Port as significant infrastructure. The submitter considers that as drafted, objectives and policies relating to infrastructure and transportation do not provide sufficient, specific recognition for the Port. Instead these objectives and policies read more like higher level objectives and policies that would normally be set out in a Regional Policy Statement. The submitter considers that the current approach to objectives and policies within the Proposed Plan contravenes the direction required by these higher level planning documents.</p> <p>The submitter notes that there are specific objectives and policies relating to the Port operations within the Seaport Zone, however this only provides for activities within the Seaport Zone, and does not serve to adequately protect the Port from incompatible activities or reverse sensitivity effects that might be proposed adjacent to the Port and outside the Seaport Zone.</p> <p>FS24.16 Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd support Submission 24.1.</p>	<p>Decision 22/1 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason: This is a general submission. Specific matters are raised by South Port in other submissions points and these are dealt with elsewhere in this Decision.</p>
SECTION 2.42 ISSUES, OBJECTIVES, POLICIES	
<p>24.44 South Port NZ Ltd</p> <p>Introduction: Oppose in part. The submitter does not consider this to be an accurate description of the port activities and sufficient recognition of the significant contribution the port activities and facilities provide to the social, economic and cultural well-being of the surrounding community. The submitter believes it is inappropriate to focus this description on coastal hazards – ports by design and nature are located in such environments and are managed to ensure there are appropriate risk management strategies in place to manage such effects. The reference to hazards should be deleted.</p> <p>The submitter also suggests that there should be recognition that the Bluff area has been influenced by the presence of the Port.</p> <p>Decision Sought: Amend the introduction as follows:</p> <p>The Seaport Zone is located adjacent to and within the Bluff Harbour adjacent to the</p>	<p>Decision 22/2 This submission is accepted in part.</p> <p>Amendments to District Plan The Introduction to the Seaport Zone is amended as follows:</p> <p>2.42 Seaport 1 Zone The Seaport 1 Zone is located adjacent to and within the Bluff Harbour adjacent to the township of Bluff. It provides the opportunity for a variety of land use activities including seaport and related activities, and fish processing, engineering industries, slipway facilities, cool stores, boat charters and commercial offices. The zone provides for high frequency of visitation from vehicles, ocean going and coastal ships and boats.</p> <p><u>The Port of Bluff has served the sea transport needs of the District and</u></p>

APPENDIX 1 - DECISIONS BY SUBMISSION

Submission	Decision
<p>township of Bluff. It provides the opportunity for a variety of land use activities including seaport activities, fish processing, engineering industries, slipway facilities, cool stores, boat charters and commercial offices. The zone provides for high frequency of visitation from vehicles, ocean going and coastal ships and boats.</p> <p><u>The Port of Bluff has served the sea transport needs of the District and the region for over a century. It is a major gateway to the Southland region for goods transported by sea. Economic activity which is directly or indirectly dependent on trade through the Port makes a significant contribution to the local, regional and national economy.</u></p> <p><u>Although much of the zone is at risk from multiple hazards, there is nowhere else in the Invercargill city district or the Southland region where a general commercial port could be located and the seaport has a functional need to locate in the coastal environment. An area of higher, less hazard-prone land is included within this zone.</u></p> <p>The zone is a working environment where activities may need to operate 24 hours a day, seven days a week. This can create a number of environmental effects, which may extend into the township of Bluff. <u>Therefore the establishment of sensitive land use activities near the Port has the potential to generate conflicts, which must be carefully managed.</u> Traditionally Bluff has been tolerant of port-related effects, reflecting the strong links between the port and the Bluff community. Bluff is a port town and a moderate level of port-related environmental effects is acceptable and generally accepted. However, experience elsewhere in the country indicates that some port-related effects, such as noise, can become a vexed issue.</p> <p>FS24.1 Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd Supports Submission 24.44. The further submitter considers that the relief sought accurately describes the port activities and recognises the significant contribution the port activities and facilities provide to the social, economic and cultural well-being of the surrounding community.</p> <p>The further submitter notes that they have existing terminal facilities that are functionally a part of the Port Operations. The further submitter believes that it is important to ensure further encroachment of sensitive activities is avoided.</p>	<p><u>the region for over a century. It is a major gateway to the Southland region for goods transported by sea. Economic activity which is directly or indirectly dependent on trade through the Port makes a significant contribution to the local, regional and national economy.</u></p> <p>Although much of the zone is at risk from multiple hazards, there is nowhere else in the Invercargill City District or the Southland region where a general commercial port could be located and the seaport has a functional need to locate in the coastal environment. <u>An area of higher, less hazard-prone land is included within this zone.</u></p> <p>The zone is a working environment where activities may need to operate 24 hours a day, seven days a week. This can create a number of environmental effects, which may extend into the township of Bluff. <u>Therefore, the establishment of sensitive land use activities near the Port has the potential to generate conflicts, which also must be carefully managed.</u> Traditionally Bluff has been tolerant of port-related effects, reflecting the strong links between the port and the Bluff community. Bluff is a port town and a moderate level of port-related environmental effects is acceptable and are generally accepted. However, experience elsewhere in the country indicates that some port-related effects, such as noise, can become a vexed issue.</p> <p><u>Reason:</u></p> <p>The additions to the introductory text suggested by the submitter are consistent with Section 5 of the RMA and provide a sound setting for the provisions that follow, however not all of the text is appropriate in the District Plan.</p>
2.42.1 ISSUES	
<p>24.45 South Port NZ Ltd</p> <p>Issue 2: The submitter supports this provision in part. The submitter agrees that a balance between the requirements of the seaport with achieving an acceptable level of amenity for those residing within adjacent zones needs to be achieved and that this should be reflected in the drafting of the issue. Revise Issue 2 as follows:</p> <p><u>Activities within the Seaport Zone must balance the operational requirements of the</u></p>	<p>Decision 22/3</p> <p>This submission is accepted in part.</p> <p>Amendments to District Plan</p> <p>Include an additional issue as follows:</p> <p><u>1. The port of Bluff is part of the essential infrastructure of the</u></p>

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION TWO – ISSUES, OBJECTIVES AND POLICIES

2.1 Introduction

ZONE SPECIFIC

~~2.30 Industrial 1A (Marine)~~

~~2.42 Seaport 1~~

~~2.42A Seaport 2~~

~~2.30 Industrial 1A (Marine) Zone¹~~

~~— This zone specifically anticipates the growth of light industry associated with boat and yacht maintenance and servicing, adjacent to possibly the only area in Bluff Harbour with potential for further development for boat and yacht berthage and ultimately a marina.~~

~~— For the town of Bluff the location of the Zone, between State Highway 1 and the railway, and the waterfront, is important from an urban design perspective. Making practical use of the area (much of which is currently vacant), whilst maintaining attractive vistas from the residential areas of the town, will require careful planning and management.~~

~~2.30.1 Issues~~

The significant resource management issues for the Industrial 1A (Marine) Zone are:

- ~~1. Lack of controls on effects of activities in the Industrial 1A Zone may result in an appropriate level of amenity within the Industrial 1A Zone and in the nearby Residential Zone.~~
- ~~2. Vistas from the residential areas of the town and from State Highway 1 may be blocked or otherwise adversely affected.~~
- ~~3. Public access along the waterfront could be compromised by development.~~

~~**Note:** All Objectives and Policies that apply to the Industrial 1 Zone also apply to the Industrial 1A Zone.~~

~~The following are the additional Objectives and Policies that apply within the Industrial 1A Zone:~~

~~2.30.2 Objectives~~

~~**Objective 1:** Industries and activities servicing the boat and marine industry, in particular the repair and maintenance of boats and associated equipment, are enabled to locate at Bluff in close proximity to the existing fishing boat berths, the existing slipway, the existing Maritime Museum and the area that has the potential for future development as a marina.~~

~~**Objective 2:** Public access along the waterfront is maintained and enhanced.~~

¹ Decision 22/13 deletes this zone in its entirety

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2.30.3 Policies

Policy 1 ~~Industrial 1A (Marine) Zone:~~ To establish and implement the Industrial 1A Zone at Bluff to enable and encourage its development by industries and activities servicing boats and associated equipment.

~~*Explanation:* Bluff is home port for a sizeable local fishing fleet, and is also the largest servicing port for boats normally based at Stewart Island, Riverton or Fiordland. An increasing number of visiting yachts call at Bluff, seeking secure mooring and repair facilities. For years there have been calls for development of a marina at Bluff. While it acknowledges that any marina would be in the CMA and outside the boundary of the District Plan, the Council wishes to encourage the development of a marina and boat servicing facilities at Bluff. This is the reason for the establishment of the Industrial A Zone, in close proximity to an area of water suited for future development of marine facilities. The zone is also in close proximity to the existing fishing boat berths.~~

Policy 2 ~~Waterfront Access:~~ To maintain and make a feature of pedestrian access along the waterfront.

~~*Explanation:* This is the one area near to the Port of Bluff where the public currently has access to the foreshore and can view the port activity. It needs to be retained and has the potential to be developed into a significant townscape feature of Bluff.~~

2.30.4 Methods of Implementation

Method 1 Delineate the Industrial 1A Zone on the District Planning Maps.

Method 2 Apply the methods of implementation for the Industrial 1 Zone within the Industrial 1A Zone.

Method 3 Initiate environmental advocacy for:

(A) ~~The promotion of the area for light industry associated with boat and yacht maintenance and servicing.~~

2.31 Industrial 2 (Urban) Zone

Objective 2: The protection of the integrity and amenity of the Residential, the Suburban Shopping and Business, the Central Business District, and the Industrial 1 and 4A Zones by making specific provision for a range of industrial, warehousing and service activities in appropriate areas of the city.

2.42 Seaport 1 Zone²

The Seaport 1 Zone is located adjacent to and within the Bluff Harbour adjacent to the township of Bluff. It provides the opportunity for a variety of land use activities including seaport and related activities, and fish processing, engineering industries, slipway facilities, cool stores, boat charters and commercial offices. The zone provides for high frequency of visitation from vehicles, ocean going and coastal ships and boats.

² Decision 22/2 amends the Introduction

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The Port of Bluff has served the sea transport needs of the District and the region for over a century. It is a major gateway to the Southland region for goods transported by sea. Economic activity which is directly or indirectly dependent on trade through the Port makes a significant contribution to the local, regional and national economy.

Although much of the zone is at risk from multiple hazards, there is nowhere else in the Invercargill City District or the Southland region where a general commercial port could be located and the seaport has a functional need to locate in the coastal environment. ~~An area of higher, less hazard-prone land is included within this zone.~~

The Zone is a working environment where activities may need to operate 24 hours a day, seven days a week. This can create a number of environmental effects, which may extend into the township of Bluff. Therefore, the establishment of sensitive land use activities near the Port has the potential to generate conflicts, which also must be carefully managed. ~~Traditionally Bluff has been tolerant of port-related effects, reflecting the strong links between the port and the Bluff community. Bluff is a port town and a moderate level of port-related environmental effects is acceptable and are generally accepted. However, experience elsewhere in the country indicates that some port-related effects, such as noise, can become a vexed issue.~~

2.42.1 Issues

The significant resource management issues for the Seaport 1 Zone:

1. The port of Bluff is part of the essential infrastructure of the Southland region and it is necessary to provide for its continuing operation.³
- ~~2. 1.~~ Without appropriate protection the operational requirements of the seaport can be compromised.
- ~~3. 2.~~ The environmental effects from activities carried out within the Seaport 1 Zone can have adverse effects on the township of Bluff.

2.42.2 Objectives

Objective 1: A viable seaport facility at Bluff ~~which~~ that meets the varied needs of the region in terms of:

- (A) The facilities and services available for commercial shipping, the fishing industry, enterprises and activities involved in cargo handling (both export and import), security and biosecurity agencies, and other users of the port.
- (B) The ability to operate without reverse sensitivity issues or serious operational impediments.
- (C) The ability to respond quickly to changed demands and market opportunities.

³ Decision 22/3

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Objective 2: ~~Identification, maintenance and enhancement of the amenity values~~Provision for the operational requirements of the Port is appropriately balanced with achieving an acceptable level of amenity for those residing on neighbouring land.⁴

2.42.3 Policies

Policy 1 Seaport 1 Zone: To establish and implement a Seaport 1 Zone at Bluff to enable the construction and operation of services and facilities to meet seaport and cargo handling needs of the Southland region and such other cargoes as may be handled through the Port of Bluff.

Explanation: *The ability to import and export goods economically is an important factor in maintaining and enhancing the economic critical mass of the Southland region. The region needs efficient seaport facilities and associated cargo handling facilities. There is nowhere else in the Invercargill City District or the Southland region where a general commercial port could be located.*

Policy 2 Noise: To provide for the opportunity to generate levels of noise in keeping with the operation of the seaport, whilst also recognising that residential areas in Bluff are entitled to reasonable residential amenity in terms of freedom from excessive noise.

Explanation: *Noise is an inevitable by-product of port and cargo handling operations and operational requirements can necessitate that these operations continue 24 hours a day, seven days a week. Traditionally the township of Bluff has been tolerant of port related noise, reflecting the strong links between the port and the Bluff community. Experience elsewhere in the country indicates that port noise can become a vexed issue. Noise standards will need to be imposed, and implemented; recognising that Bluff is a port town and a level of port related noise is acceptable and generally accepted.*

Policy 3 Odour: To accept moderate levels of odour emissions associated with port operations whilst also ensuring the absence of nuisance from objectionable odour within residential areas.⁵

Explanation: *Odour can be an inevitable by-product of seaport activities, including cargo handling operations. However, odours can be excessive or unpleasant and could potentially have adverse effects on the working environment and on the residents of Bluff. Council needs the ability to take enforcement action when necessary.*

Policy 4 - Glare⁶: ~~To accept that glare within the Seaport Zone associated with large structures may be an effect from activities in the Seaport 1 Zone whilst ensuring that nuisance from glare for~~ and seek to minimise its effect on the amenity of nearby residential areas.

Explanation: ~~Large structures or buildings can normally be coated or treated to mitigate glare nuisance.~~ The port of Bluff operates 24 hours a day at times and lighting required to enable operations to be carried out safely may impact on

⁴ Decision 22/5

⁵ Decision 22/7

⁶ Decision 22/8

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nearby residential areas. Consideration should needs to be given to the effects of glare effects in undertaking activities in the zone and in designing and locating such-structures. Where complaints are received in relation to glare from port activities the Council in the first instance will work with operators to assess and reduce its impact as far as practicable.

Policy 5 Electrical Interference: To ~~ensure freedom~~ avoid nuisance⁷ from electrical interference.

Explanation: ~~People expect not to be bothered by electrical interference. Electrical interference may have adverse effects on the efficient operation of the Seaport Zone. The possibility of electrical interference is an environmental effect that needs to be considered in the placement and maintenance of electrical equipment and machinery, including transmitting aerials.~~

Policy 6 Lightspill: To manage the effects of lightspill from seaport and associated operations on nearby residential areas.

Explanation: Floodlighting and security lighting are an essential feature of port and cargo handling facilities, but it is both possible and necessary to avoid nuisance to residential areas. Lightspill can also cause a hazard to transportation networks, including to aircraft, vehicles, trains, cyclists and pedestrians.⁸

Policy 7 Signage: To provide for signage to enable the clear identification and promotion of places of business.

Explanation: *It is important that transport operators and other users can find their way around the Seaport 1 Zone easily.*

Policy 8 Hazardous Substances: To provide for the storage and transport of hazardous substances.

Explanation: *Provision must be made for the storage and transhipment of hazardous substances and the Seaport 1 Zone is the appropriate place to do so.*

Policy 9 Dilapidated structures and ill-maintained lands: To require that buildings and land in the Seaport 1 Zone shall be sound, well-maintained and tidy in appearance.

Explanation: *Derelict industrial properties and poorly maintained industrial land could significantly detract from the amenities of the neighbouring town.*

Policy 10 Demolition or removal activities: To manage the adverse effects of demolition or removal activities on amenity values by ensuring the clean-up, screening and maintenance of sites, and the proper management of relocation activities.

Explanation: *Although normally temporary and localised, demolition activities can create a significant nuisance. There is an obligation to ensure that demolition materials are disposed of responsibly. There is also a need to ensure that the site is made safe, clean and tidy in a timely manner.*

⁷ Decision 11/4

⁸ Decision 3/10

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Policy 11 Connectivity and circulation: To promote excellent connectivity between the internal roads and rail lines within the Seaport 1 Zone, and the State Highway and the Bluff Branch Railway.

***Explanation:** Safe, efficient and direct links between transport systems are a priority to enable the safe and efficient transport of goods and also to minimise any side effects or risk on the adjacent town. Identifying and if necessary signposting unambiguous and safe routes for vehicles carrying hazardous substances is an important implication of this policy.*

⁹Policy 12 Reverse sensitivity: To recognise the adverse effects that may be generated within and from the Seaport Zone 1 activities and:

- (a) identify the effects and the area that these can impact on;
- (b) provide information to owners and prospective owners on those effects;
- (c) encourage owners of affected land to mitigate those effects on the occupiers of those properties; and
- (d) when considering resource consents for subdivision use and development have regard to potential for reverse sensitivity effects that may impact on port related activities.

***Explanation:** The operational requirements of a seaport have the potential to give rise to reverse sensitivity effects with respect to other land uses in the vicinity which may seek a coastal location for other reasons, such as views of the coast and the ambience of a port town.*

2.42.4 Methods of Implementation

Method 1 Delineate the Seaport 1 Zone on the District Planning Maps.

Method 2 Include rules identifying activities that are appropriate within the Seaport 1 Zone.

Method 3 Identify the anticipated amenity values for the Seaport 1 Zone, include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other Territorial Authorities.

Method 4 Include rules addressing District wide issues.

Method 5 Require all applications for resource consent to include an analysis of the proposal on the defined amenity values of the Seaport 1 Zone, as well as the principles of good urban design.

Method 6 Initiate environmental advocacy for:

- (A) Mitigation or avoidance of nuisance arising from glare and windflow effects.
- (B) Promotion of well maintained structures and land.
- (C) Connectivity – connections between places.

Method 7 Identify cross boundary issues e.g. odour.

⁹ Decision 22/10

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Method 8 Consult with landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.

Method 9 Recognise sectorial responses, such as NZTA published guidelines, and hazardous substances standards and guidelines.

2.42A Seaport 2 Zone¹⁰

The Seaport 2 Zone occupies land along the Bluff foreshore between the township and Bluff Harbour. It provides a convenient location for the development of light industries and land use activities that support the Port and marine industries.

In order not to unduly affect nearby residential areas, activities within the Seaport 2 Zone will be required to manage their operations subject to performance standards compatible with the nearby residential and business areas.

The Seaport 2 Zone provides a link between the township and the harbour and provides opportunities for public viewing of Port activities. Maintaining and enhancing public access through the zone is important, where it is safe and practical to do so.

2.42A.1 Issues

The significant resource management issues for the Seaport 2 Zone:

1. Without appropriate protection the operational requirements of the seaport can be compromised.
2. Lack of controls on effects of activities in the Seaport 2 Zone may result in an inappropriate level of amenity within the nearby Business and Residential Zones.
3. Vistas from the business and residential areas of the town and from State Highway 1 may be blocked or otherwise adversely affected.
4. Public access along the waterfront could be compromised by development.

2.42A.2 Objectives

Objective 1: Light industries and activities servicing the seaport and the boat and marine industry are conveniently provided for at Bluff.

Objective 2: Provision for the operational requirements of Port and marine related activities is balanced with achieving an acceptable level of amenity for those carrying out activities on neighbouring land

Objective 3: Where it can be safely provided, and is practical, public access along the waterfront is maintained and enhanced.

¹⁰ Decision 22/11

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2.42A.3 Policies

Policy 1 Seaport 2 Zone: To establish and implement the Seaport 2 Zone at Bluff to enable the construction and operation of industries, services and facilities that support the Port of Bluff and that service the boat and marine industry.

Explanation: *Bluff is home port for a sizeable local fishing fleet, and is also the largest servicing port for boats normally based at Stewart Island, Riverton or Fiordland. An increasing number of visiting yachts also call at Bluff, seeking secure mooring and repair facilities. While it acknowledges that any marina would be in the coastal marine area and outside the boundary of the District Plan, the Council wishes to encourage the development of a marina and boat servicing facilities at Bluff. The Seaport 2 Zone also accommodates facilities servicing connections between the South Island and Stewart Island.*

Policy 2 Waterfront Access: To maintain and make a feature of pedestrian access along the waterfront.

Explanation: *At present the public has access through part of the Seaport 2 Zone and the Council seeks to maintain that for amenity reasons and to also enable viewing of port activities.*

Policy 3 Connectivity: To promote excellent connectivity between the internal roads and rail lines within the Seaport 2 Zone, and the State Highway and the Bluff Branch Railway.

Explanation: *Safe, efficient and direct links between transport systems are a priority to enable the safe and efficient transport of goods and also to minimise any side effects or risk on the adjacent town. Identifying and if necessary signposting unambiguous and safe routes for vehicles carrying hazardous substances is an important implication of this policy.*

Policy 4 Noise: To provide for the opportunity to generate levels of noise in keeping with the operation of the seaport and associated industries and activities, whilst also recognising that residential areas in Bluff are entitled to reasonable residential amenity in terms of freedom from excessive noise.

Explanation: *Noise is an inevitable by-product of port and cargo handling operations and operational requirements can necessitate that these operations continue 24 hours a day, seven days a week. Traditionally the township of Bluff has been tolerant of port related noise, reflecting the strong links between the port and the Bluff community. Experience elsewhere in the country indicates that port noise can become a vexed issue. Noise standards will need to be imposed, and implemented; recognising that Bluff is a port town and a level of port related noise is acceptable and generally accepted.*

Policy 5 Odour: To accept moderate levels of odour emissions whilst also ensuring the absence of nuisance from objectionable odour within residential areas.

Explanation: *Odour can be an inevitable by-product of seaport activities, including cargo handling operations. However, odours can be excessive or unpleasant and could potentially have adverse effects on the working environment and on the residents of Bluff. Council needs the ability to take enforcement action when necessary.*

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

Policy 6 Glare: To accept that glare may be an effect from activities in the Seaport 2 Zone and seek to minimise its effect on the amenity of nearby residential areas.

Explanation: By their nature and scale, some glare from large building surfaces can be expected within the Seaport 2 Zone. Glare can become a major nuisance or even a hazard if not considered in the operation of a site, the design of buildings, or in the design of moving signage, and the Council needs the ability to take enforcement action. Although minor and transient inconvenience from glare is part of normal urban life, the effects of glare from within the Seaport 2 Zone should be managed. Large structures or buildings can normally be coated or treated to mitigate glare nuisance. Consideration should be given to glare effects in undertaking activities in the zone and in designing and locating structures. Where complaints are received in relation to glare from port activities the Council in the first instance will work with operators to assess and reduce its impact as far as practicable.

Policy 7 Electrical Interference: To avoid nuisance from electrical interference.

Explanation: The possibility of electrical interferences is an environmental effect that needs to be considered in the placement and maintenance of electrical equipment and machinery, including transmitting aerials. Electrical interference may have adverse effects on the efficient operation of the Seaport 1 and 2 Zones.

Policy 8 Lightspill: To manage the effects of lightspill from seaport and associated operations on nearby residential areas.

Explanation: Floodlighting and security lighting are an essential feature of port and cargo handling facilities and can be a necessary part of other light industries, but it is both possible and necessary to avoid nuisance to residential areas.

Policy 9 Signage: To provide for signage to enable the clear identification and promotion of places of business.

Explanation: It is important that transport operators and other users can find their way around the Seaport 2 Zone easily.

Policy 10 Hazardous Substances: To provide for the manufacture, storage and use of hazardous substances, whilst having regard to the safety needs of the general public.

Explanation: Provision for the storage and transhipment of hazardous substances is appropriate in the Seaport 2 Zone. Hazardous substances are also part of the normal operation of many light industrial activities. Use, manufacture and storage of hazardous substances may impose a risk constituting an adverse environmental effect. The Zone's location in respect of the coastal environment, the potential risks of natural hazards, and the interface with more sensitive urban environments are among relevant considerations when assessing hazardous substances matters.

Requiring activities that utilise significant quantities of hazardous substances to co-locate within the Seaport 2 Zone will contain the potential environmental, and health and safety, effects away from more sensitive urban environments.

Note: Underline indicates additions, strikethrough indicates deletions.

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Policy 11 Dilapidated structures and ill-maintained lands: To require that buildings and land in the Seaport 2 Zone shall be sound, well-maintained and tidy in appearance.

Explanation: *Derelict industrial properties and poorly maintained industrial land could significantly detract from the amenities of the neighbouring town.*

Policy 12 Demolition or removal activities: To manage the adverse effects of demolition or removal activities on amenity values by ensuring the clean-up, screening and maintenance of sites, and the proper management of relocation activities.

Explanation: *Although normally temporary and localised, demolition activities can create a significant nuisance. There is an obligation to ensure that demolition materials are disposed of responsibly. There is also a need to ensure that the site is made safe, clean and tidy in a timely manner.*

Policy 13: Height and location of structures: To control the height of structures in order to avoid adverse effects on the adjoining business and residential areas.

Explanation: *The Seaport 2 Zone is located between the town of Bluff and the Bluff Harbour. Structures in this Zone are expected to be kept in scale with the adjoining residential and business areas. Management of the height of structures recognises the community values relating to physical and visual connections with the coast and the waterfront.*

Policy 14 Reverse sensitivity: To recognise the adverse effects that may be generated within and from the Seaport 2 Zone activities and:

- (a) identify the effects and the area that these can impact on;
- (b) provide information to owners and prospective owners on those effects;
- (c) encourage owners of affected land to mitigate those effects on the occupiers of those properties; and
- (d) when considering resource consents for subdivision use and development have regard to potential for reverse sensitivity effects that may impact on port related activities.

Explanation: *The operational requirements of a seaport have the potential to give rise to reverse sensitivity effects with respect to other land uses in the vicinity which may seek a coastal location for other reasons, such as views of the coast and the ambience of a port town.*

2.42A.4 Methods of Implementation

Method 1 Delineate the Seaport 2 Zone on the District Planning Maps.

Method 2 Include rules identifying activities that are appropriate within the Seaport 2 Zone.

Method 3 Identify the anticipated amenity values for the Seaport 2 Zone, include environmental standards to protect and enhance them, and implement through enforcement under the RMA, education, advocacy and collaborating with other Territorial Authorities.

Method 4 Include rules addressing District wide issues.

Note: Underline indicates additions, strikethrough indicates deletions.

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Method 5 Require all applications for resource consent to include an analysis of the proposal on the defined amenity values of the Seaport 2 Zone, as well as the principles of good urban design.

Method 6 Initiate environmental advocacy for:

- (A) Promotion of the area for light industry associated with boat and yacht maintenance and servicing.
- (B) Promotion of opportunities to maintain and enhance public access to the waterfront.
- (C) Mitigation or avoidance of nuisance arising from glare and windflow effects.
- (D) Promotion of well maintained structures and land.
- (E) Connectivity – connections between places.

Method 7 Identify cross boundary issues e.g. odour.

Method 8 Consult with landowners and occupiers, iwi, Central Government organisations, internal Council departments and local community and business groups.

Method 9 Recognise sectorial responses, such as NZTA published guidelines, and hazardous substances standards and guidelines.

SECTION THREE - RULES

3.7 Hazardous Substances

3.7.1 The following activities are permitted activities:

- (E) The transit and two hour storage maximum of tracked hazardous substances, and the transit and 72 hour storage maximum of non-tracked hazardous substances within the Smelter, Seaport 1, Seaport 2¹¹, and Industrial 2, Industrial 3 and Industrial 4 Zones. Where this involves the transit and storage of anhydrous ammonia and chlorine gas, an emergency management plan must be supplied to the Council in advance.
- (F) The storage of hazardous substances (excluding fixed installations) within the Seaport 1 and Seaport 2¹² Zones with either a Hazardous Substance Location Certificate or Transit Depot Certificate issued pursuant to the Hazardous Substances (Classes 1 to 5) Regulations 2001 and for Classes 6, 8, 9 in compliance with the Hazardous Substances and New Organisms Act 1996.

¹¹ Consequence of Decision 22/11 and 22/13

¹² Consequence of Decision 22/11 and 22/13

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

3.9 Infrastructure¹³

Electricity lines

3.9.840 It is a permitted activity to erect new electricity lines up to (and including) 110kV in all Zones of the District, subject to the following standards:

- (A) Other than where existing support structures are used, new lines are to be located underground in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4 and 4~~6~~, Industrial 1, ~~1A~~ and 2, Otatara and Hospital Zones.
- (B) Any lines crossing a navigable water body are located more than 10 metres above the level of the water body.

Electricity Substations

3.9.1315 ~~It is a permitted activity to erect electricity substations subject to the following standards:~~

- ~~(A) Except in the Rural 1 and 2, Seaport, Industrial 2, 3 and 4, and Smelter Zones, no ground-mounted structure shall exceed six square metres in area or two metres in height.¹⁴~~

It is a permitted activity to erect ground-mounted electricity substations in the Rural, Seaport 1 and 2, Industrial 2, 2A, 3 and 4, and Smelter Zones.¹⁵

Communications – Line reticulation

3.9.18 Lines used for the conveying of telecommunications, television, electronic data and other such communications are a permitted activity in all zones of the District, subject to the following standard:

- (A) Other than where existing support structures are used, such lines are located underground in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4 and 4~~6~~, Industrial 1, ~~1A~~ and 2, Otatara and Hospital Zones.¹⁶

Telecommunication and Radiocommunication Facilities

3.9.21 Telecommunication and radiocommunication facilities are permitted activities subject to the following standards:

- (D) No antenna attached to a building or mast shall extend above the building or mast more than:
 - (a) 5 metres in the Industrial 2, 2A, 3 and 4 Zones, Seaport 1 and 2 Zones, or Rural Zone or
 - (b) 3.5 metres in the Airport Protection Zone, Business Zones, Hospital Zone, Industrial 1 Zone, Otatara Zone and Residential Zones.

¹³ Refer to Decision 19 Infrastructure

¹⁴ Decision 19/68

¹⁵ Decision 19/68

¹⁶ Decision 19/69

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3.11 Lightspill

- 3.11.2 The generation of lightspill, measured at the boundary of the site, shall not exceed the following:

	Sunset through midnight to sunrise
Industrial 1, 1A ¹⁷	5 lux
Seaport 1 and 2	No limit

3.13 Noise

3.13.2 Noise Levels from Activities

- (A) All activities are to be designed and operated so that the following noise limits are not exceeded:

	Day time 0700 - 2200		Night time 2200 - 0700	
	L _{Aeq}	L _{Amax}	L _{Aeq}	L _{Amax}
When measured at or within the boundary of any other site within a zone:				
Industrial 1, 1A ¹⁸	65dB	85dB	40dB	70dB

3.13.8 Seaport 1 and 2 Zones

- (A) Long Term Noise Limit - The night-weighted sound exposure from activities undertaken in the Seaport 1 and 2 Zones shall not exceed:
- (a) An average sound level of 65dBA L_{dn} beyond the Inner Control Boundary calculated over five consecutive days.
 - (b) An average sound level of 68dBA L_{dn} beyond the Inner Control Boundary calculated over any continuous 24 hour period.
- (B) Short Term Noise Limits - Sound from activities undertaken shall not exceed the following noise limits at any point beyond the Inner Control Boundary:
- (a) 2200 to 0700 the following day 60 dBA L_{eq(9hr)} provided that:
 - (1) No single 15 minute sound measurement shall exceed 65dBA L_{eq}.
 - (2) No single sound measurement shall exceed 85dBA L_{max}.
 - (b) For the purpose of this rule:

¹⁷ Consequence of Decision 22/11 and 22/13

¹⁸ Consequence of Decision 22/11 and 22/13

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- (1) Sound will be measured using a representative 15 minute Leq value when calculating the L_{dn} or nine hour L_{eq} values.
- (2) Sound will be measured and assessed in accordance with the provisions of NZS6809:1999 Acoustics – Port Noise: Management and Land Use Planning.

3.16 Signage

3.16.1 It is a permitted activity to erect signage that complies with the following maximum levels:

Industrial 1, 2, 3 and 4 Zones	(a) Signage painted on, or attached parallel to, buildings: Maximum area: 1m ² per metre of street frontage (b) Freestanding signage and signage attached at an angle to buildings: (i) Maximum combined area: 14m ² (ii) Maximum height: 12m
Seaport 1 and 2 ¹⁹ Zones	No limit to size of signage ²⁰

3.17 Soils Minerals and Earthworks

3.17.1 Rules 3.17.2 – 13.17.8 do not apply to:

- (A) Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.²¹

3.18 Subdivision

3.18.12 Esplanade strips will not be required in relation to the ~~Island Harbour of the~~²² Seaport 1 Zone and in relation to the Smelter Zone.

3.20 Transport

3.20.1²³ **Off-Street Car parking Requirements:** All land use activities specified in the table below, ~~except within the Seaport, Smelter and the City Centre Priority Development Precinct in the Business 1 Zone,~~ shall provide the following minimum off-street car parking facilities except:

- (A) Within the Seaport 1 and 2 Zones, Smelter Zone and the City Centre Priority Development Precinct in the Business 1 Zone

¹⁹ Consequence of Decision 22/11 and 22/13

²⁰ Decision 8/10

²¹ Decision 26/23 replaces 3.17 in its entirety unless otherwise stated

²² Consequence of Decisions 22/11 and 22/13

²³ Decision 13/41

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

3.29 Industrial 1 (Light) and ~~Industrial 1A (Marine) Zones~~

3.29.1 Permitted Activities: The following are permitted activities in the Industrial 1 ~~and Industrial 1A Zones~~:

...

3.29.2 Discretionary activities: The following are discretionary activities in the Industrial 1 Zone ~~and 1A Zones~~:

(A) Any activity not listed as permitted or non-complying.

3.29.3 Non-complying activities: The following are non-complying activities in the Industrial 1 Zone ~~and 1A Zones~~:

...

3.40 Seaport 1 Zone

3.40.1 Permitted Activities: The following are permitted activities in the Seaport 1 Zone:

(A) Seaport activities

(B) Essential services

(C) Light industry

(D) Heavy Industry

(E) Takeaway food premises not exceeding 150 square metres

(F) Land transport facility²⁴

3.40.2 Discretionary Activities: The following are discretionary activities in the Seaport 1 Zone:

(A) Any activity not listed as permitted or non-complying.

3.40.3 Non-complying Activities: The following are non-complying activities in the Seaport 1 Zone:

(A) Any noise sensitive activity.

3.40A Seaport 2 Zone²⁵

3.40A.1 Permitted Activities: The following are permitted activities in the Seaport 2 Zone:

(A) Seaport activities

(B) Fish Processing

²⁴ Decision 22/11

²⁵ Decision 22/11

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(C) Essential services

(D) Light industry

(E) Takeaway food premises not exceeding 150 square metres

(F) Land transport facility

3.40A.2 Discretionary Activities: The following are discretionary activities in the Seaport 2 Zone:

(A) Any activity not listed as permitted or non-complying.

3.40A.3 Non-complying Activities: The following are non-complying activities in the Seaport 2 Zone:

(A) Any noise sensitive activity.

(B) Commercial Service Activity

(C) Office Activity

(D) Supermarkets

Height of Structures

3.40A.4 All new buildings and structures, and additions to existing buildings and structures, are to be designed and constructed to comply with the following maximum height and recession planes:

(A) Maximum height: 12 metres.

(B) Recession plane: Infogram 4 applies in relation to any boundary with any residential zone.

3.40A.5 Where an activity does not comply with Rule 3.40A.4 above, the activity is a restricted discretionary activity.

The matters over which the Council shall exercise its discretion are:

(A) Reasons for the building or structure height.

(B) The compatibility of the proposed building or structure with the scale of development and character of the local area.

(C) The degree of overshadowing of neighbouring properties.

(D) The degree of overlooking of neighbouring properties.

(E) The ability to mitigate any adverse effects of the increase in building or structure height.

Note: Underline indicates additions, strikethrough indicates deletions.

APPENDIX 2 - AMENDED DISTRICT PLAN PROVISIONS

SECTION FOUR DEFINITIONS

Fish Processing: means the processes associated with fish and fish products between the time fish are caught or harvested, and the time the final product is delivered to the customer and covers any aquatic organisms harvested for commercial purposes, whether caught in wild fisheries or harvested from aquaculture or fish farming.²⁶

Seaport Activities: Means those activities, buildings and structures associated with, and necessary for, the loading and unloading of goods and materials to and from ships and boats and their associated storage, handling, consolidation and distribution. This includes, but is not limited to, associated administration activities (including ancillary offices), staff facilities and infrastructure, freight depots, and also includes the repair, maintenance and servicing of ships and boats, border control activities, and facilities for the use of passengers including associated vehicle parking.²⁷

APPENDIX VII – HAZARDOUS SUBSTANCES

HSNO SUB-CLASS AND HAZARD CLASSIFICATION	GROUP 2: INDUSTRIAL 1, 1A ²⁸ , BUSINESS 1, 2, 3, 4, AND 5 AND 6 ZONES EXCLUDING RESIDENTIAL ACTIVITIES	GROUP 3 : INDUSTRIAL 2, 2A , 3, AND 4 AND SEAPORT 2 ²⁹ <u>SMELTER ZONES, EXCLUDING</u> <u>RESIDENTIAL ACTIVITIES</u>	GROUP 6: SEAPORT 1 ³⁰ ZONE, EXCLUDING RESIDENTIAL ACTIVITIES
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PLANNING MAPS

Amend District Planning Maps 27, 28, 29 and 30 to reflect the following rezoning:³¹

- Industrial 1A to Seaport 2
- Seaport to either Seaport 1 or Seaport 2

²⁶ Decision 22/11

²⁷ Decision 22/11

²⁸ Consequence of Decisions 22/11 and 22/13

²⁹ Consequence of Decisions 22/11 and 22/13

³⁰ Consequence of Decisions 22/11 and 22/13

³¹ Decision 22/11 and 22/13

ANNEXURE C

Names and addresses of persons to be served with a copy of this notice

Hazardous Substances – Provision for LPG and Provision for Underground Storage of Diesel and Petroleum at Service Stations

Environmental and Planning Services Directorate
Invercargill City Council
Private Bag 90104
INVERCARGILL

New Zealand Aluminium Smelter Limited
C/- Chapman Tripp
P O Box 993
WELLINGTON 6140
Attn: Katherine Viskovic

HW Richardson Group Limited
C/- Mitchell Partnerships
P O Box 489
DUNEDIN 9054
Attn: Joanne Dowd

ICC Environmental Health and Compliance Services
Environmental Health Service Manager
Private Bag 90104
Invercargill
Attn: John Youngson

Federated Farmers
P O Box 5242
DUNEDIN 9058
Attn: David Cooper

South Port New Zealand Limited
Mitchell Partnerships Limited
P O Box 489
DUNEDIN
Attn: John Kyle

Earthworks – Permit earthworks associated with the installation and removal of an underground petroleum storage system

Environmental and Planning Services Directorate
Invercargill City Council
Private Bag 90104
INVERCARGILL

Policy Direction in Respect of Reverse Sensitivity Effects in the Seaport Zone - Managing Effects of Hazardous Substances – New Policy

Environmental and Planning Services Directorate
Invercargill City Council
Private Bag 90104
INVERCARGILL

South Port New Zealand Limited
Mitchell Partnerships Limited
P O Box 489
DUNEDIN
Attn: John Kyle