

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under clause 14 of the First
Schedule of the Act
BETWEEN NIAGARA SAWMILLING COMPANY
LIMITED
(ENV-2016-CHC-98)
Appellant
AND INVERCARGILL CITY COUNCIL
Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 3 December 2018

CONSENT ORDER

- A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
- (1) the appeal is allowed to the extent that the Invercargill City Council is directed to amend the proposed Invercargill City District Plan as set out in Annexure A, attached to and forming part of this order;
 - (2) the appeal is otherwise dismissed.
- B: Under s285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

[1] This proceeding concerns an appeal by Niagara Sawmilling Company Limited against a decision of the Invercargill City Council on the Proposed Invercargill City District Plan – Industrial Zones.

[2] The court has now read and considered the consent memorandum of the parties dated 3 September 2018, which proposes to resolve the appeal.

Other relevant matters

[3] The following have given notice of an intention to become a party under s274 of the Resource Management Act (“the RMA”) and have signed the memorandum setting out the relief sought:

- (a) Shanan de Garnham;
- (b) Quenton Stephens;
- (c) Barry Stephenson;
- (d) Regina Stephenson.

Orders

[4] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court’s endorsement fall within the court’s jurisdiction, and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.


J J M Hassan
Environment Judge



'A'

2.32 INDUSTRIAL 3 (LARGE) ZONE

2.32.3 Policies

Policy 17 Deferred zoning – To retain the Rural Zone provisions on the land at 7 and 9* Kennington Road until such stage as the landscaping has been completed in accordance with the relevant Concept Plan in Appendix X and formal notice, in writing, has been delivered to the Director of EPS requesting the zone be made operational. On completion of this work, to provide for the development of the land for industrial purposes in accordance with the concept plan and the Industrial 3 Zone provisions.

Explanation: *The intended future use of the land at 7 Kennington Road and 9* Kennington Road is industrial. However, until the development of the landscaping shown on the concept plan in Appendix X has been completed, the Rural Zone provisions will continue to apply. The development of the landscaping to the site is necessary as a means of addressing potential adverse effects of rezoning, such noise effects and visual amenity on neighbouring properties. The concept plan also includes restrictions over access points on the property on the west side of Kennington Road that will be relevant at the time of development of this part of the Industrial 3 Zone.*

3.31 INDUSTRIAL 3 (LARGE) ZONE

3.31.1 Permitted Activities: The following are permitted activities in the Industrial 3 Zone:

- (A) Agriculture
- (B) Essential services
- (C) Freight depot
- (D) Land transport facility
- (E) Heavy industry
- (F) Light industry
- (G) Specialist facilities for animal husbandry including veterinary clinic
- (H) Storage and sale of liquid and gaseous fuels
- (I) Takeaway food premises not exceeding 150 square metres

Provided that:

- (A) The development complies with the relevant Concept Plans in Appendix X.

3.31.2 Discretionary activities: The following are discretionary activities in the Industrial 3 Zone:

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



3.31.3 Non-complying activities: The following are non-complying activities in the Industrial 3 Zone:

(A) Noise sensitive activity.

3.31.4 Deferred zone provisions: The Rural Zone Objectives, Policies and Rules apply to the land legally described on 4 October 2017 as:

- (i) 7 Kennington Road (Sec 2 SO 484274) and
- (ii) 9* Kennington Road (Pt Lot 2 DP 1110)

until a Council resolution has been passed that both the development of the landscaping has been completed as detailed in the relevant Concept Plan in Appendix X and a formal request for the zone to become operational has been received by the Director of EPS..

Height of Structures

3.31.4 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:

- (A) Maximum height: 25 metres.
- (B) Within that part of the Industrial 3 Zone illustrated on the Concept Plan in Appendix X the maximum height is 35 metres.

3.31.5 Where an activity does not comply with Rule 3.31.4 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 ability to mitigate any adverse effects of the increase in building or structure height.

Site Coverage

3.31.7 The maximum coverage of all buildings on each site shall not exceed 75%% of the net site area.

3.31.8 Where an activity does not comply with Rule 3.31.7 above, the activity is a discretionary activity.

3.31.9 Applications under Rule 3.31.8 shall address the following matters, which will be among those taken into account by the Council:

- (A) Measures proposed to deal with stormwater.



(B) The effect of the excess coverage on the amenities of neighbouring properties.

(C) The visual effect of large buildings.

Access

3.31.10 Within that part of the Industrial 3 Zone illustrated on the Concept Plan 3.1 in Appendix X:

(A) Access to the site on the western side of Bluff Highway shall be via the existing formed access road shown on the Concept Plans.

(B) All on-site lighting shall be directed away from the State Highway and shielded to avoid glare reaching the State Highway.

3.31.11 Any activity that does not comply with any of the rules and environmental standards referred to in Rule 3.31.10 above is a discretionary activity.

3.31.12 Applications under Rule 3.31.11 above shall address the following matter, which will be among those taken into account by the Council:

(A) Effects on the State Highway and the wider transportation network.



DRAFT

INVERCARGILL WOODLANDS HIGHWAY (SH1)

KENNINGTON ROSLYN BUSH ROAD

KENNINGTON ROAD

SEE PAGE TWO FOR INTERSECTION

Proposed Landscape Strip

Proposed Single Access Point

NIAGARA PROPERTY

NIAGARA PROPERTY

NIAGARA SAWMILL

SITE LOCALITY PLAN

CONCEPT INTERSECTION UPGRADE,
CNR WOODLANDS INVERCARGILL HWY &
KENNINGTON ROAD, INVERCARGILL



DATE: 22/06/2017
SCALE: 1:750

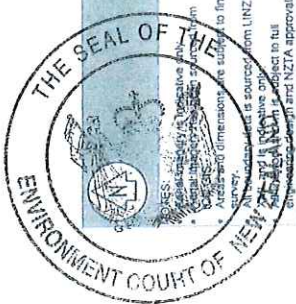
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CNR WOODLANDS INVERCARGILL HWY &
KENNINGTON ROAD, INVERCARGILL

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