

BEFORE THE INVERCARGILL CITY COUNCIL HEARINGS COMMISSIONER

IN THE MATTER OF the Resource Management Act 1991 ("the Act")

AND

IN THE MATTER OF RMA/2019/109, being an application for resource consent to establish and operate a farm vehicle sales and servicing activity within the Rural Zone at 27 Lorne Dacre Highway and 2137 Winton Lorneville Highway, Invercargill.

BETWEEN **J J Limited**
Applicant

AND **Invercargill City Council**
Local Authority

**SECTION 42A REPORT OF GARETH CLARKE, CONSULTANT PLANNER, ON
BEHALF OF INVERCARGILL CITY COUNCIL**

DATED 25 OCTOBER 2019

Applicant	J J Limited
Application	Land Use Consent to establish and operate a farm vehicle sales and servicing activity within the Rural Zone.
Site	27 Lorne Dacre Highway and 2137 Winton Lorneville Highway
Legal Description	Lots 6 and 7 DP 15006; Lot 1 DP 402989
Classification	Rural Zone of the Proposed Invercargill City District Plan 2016 (the Proposed District Plan), being the relevant District Plan at the time the application was lodged. It should be noted that at the time the application was lodged all appeals had been resolved and the provisions of the Proposed District Plan were treated as operative. It should further be noted that in the time since the application was lodged, the Proposed District Plan has now been made fully operative and is known as the Invercargill City District Plan 2019.
Activity Status	Non-complying.
Process	The application was publicly notified under Section 95A of the Resource Management Act 1991 (the Act).
Background	The application was received on 28 June 2019. Further information was requested under Section 92 of the Act on 17 July 2019 and this information was provided by the applicant on 22 July 2019. On 7 August 2019 the Director of Environmental and Planning Services considered the matter of notification and decided that the application required public notification under Section 95A of the Act. The reason for this decision was that the proposed activity is likely to have adverse effects on the environment beyond the adjoining properties that are more than minor. The application was notified on 13 August 2019 and two submissions in support of the application were received within the submission timeframe.
Issues	The key issue for this application is the potential effects on rural character and amenity values.

1. INTRODUCTION

My name is Gareth Clarke and I am currently employed as a Senior Planning Consultant at WM Compliance Solutions Limited. I hold a Bachelor of Arts majoring in Geography from the University of Otago. I have 12 years' experience in district and regional planning working in New Zealand and the United Kingdom with much of my work experience relating to the processing of resource consent applications.

I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses and, while this is not an Environment Court Hearing, I agree to comply with the code. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

This report has been prepared to assist the Commissioner. It contains a recommendation that is in no way binding. It should not be assumed that the Commissioner will reach the same conclusion.

2. BACKGROUND TO THE APPLICANT AND THE SITE

The applicant currently operates their existing farm machinery sales and service business from two inner city sites in Invercargill located at 260 Dee Street (zoned Business 3) and 62 Liffey Street (zoned Residential 1 with the industrial use of the site authorised by way of a 2008 resource consent). At present the existing location means that any vehicle testing required is undertaken on urban roads surrounding the premises, with machinery also using the roads when being shifted between the two sites. The site constraints of the current inner city location and the difficulty of access for clients with farm machinery has led the applicant to seek to relocate their rural servicing business to the rural area.

The application site occupies the northeast corner of the intersection of State Highway 6 with State Highways 98 and 99. The site is located entirely within the Rural Zone and is vacant with the exception of a farm shed on the eastern portion of the site. The site on the southeast corner of the intersection is also zoned entirely within the Rural Zone but is occupied by a service station and motor vehicle repair activity. The two opposing corner sites on the western side of State Highway 6 are zoned Business 5, a zoned developed specifically to provide for rural servicing activities. Part of the proposed application site has also previously had resource consent for the establishment of rural servicing activities. In October 2007, Land Use Consent LUC/2007/198 was granted to allow the establishment of a 1120m² farm machinery retail and servicing premises and a 2000m² wool store. The application was approved under the 2005 version of the Invercargill City District Plan, and lapsed in October 2012 without having been given effect to.

3. APPLICATION DETAILS

The application is for Land Use Consent to establish and operate a farm vehicle sales and service business within the Rural Zone. The proposal includes the construction of an approximately 792m², 10m high showroom and parts store, and an attached workshop of approximately 1173m², giving an overall building footprint of 1965m². The proposal also includes an outdoor display area along the road frontage of both State Highways (i.e. at the northeast corner of the SH6 and SH98 intersection), a fenced outdoor storage yard adjoining and to the north of the workshop building, and a designated vehicle testing area in the northern portion of the site. A vehicle access way will link the showroom/workshop area to a new vehicle crossing on to State Highway 98 at the eastern end of the property.

A 2m wide landscape strip will be provided between the road frontage and the 8m wide outdoor display area in the southwest corner of the site. A hardstanding car parking and manoeuvring area with capacity for 30 cars will be located between the outdoor display area and the main building. A 4.1m high by 1.9m wide illuminated freestanding pylon sign will be located at the road frontage boundary in the southwest corner of the site. Signage totalling 35.55m² will also be attached to the western and southern facades of the building

The activity will employ 30 staff, three of which are sales staff who operate remotely, meaning there will be no more than 27 staff on site at any one time.

4. SITE DESCRIPTION

The site to which the application relates is located on the northeastern corner of the junction of Winton Lorneville Highway and Lorne Dacre Road, both these roads being State Highways. The total area of the property is 9.72 hectares. The site is currently vacant farmland that is flat to undulating. The only building currently present on the property is an existing farm shed on the eastern side of the property near the road frontage boundary with Lorne Dacre Road. A waterway that is a tributary of the Waikiwi Stream runs north-south alongside the existing shelterbelt on the eastern side of the site.

There are currently two vehicle accesses to the site with one located on Lorne Dacre Road next to the existing farm shed, and the other at the northern end of the site off a shared Right of Way that provides residential access to 2139 and 2135 Winton Lorneville Highway.

The wider Lorneville area consists of a mixture of land uses including commercial/retail, industrial, rural servicing, rural and residential activities. The land immediately adjoining the application site consists of rural and residential land uses. As discussed above, the other three corners of the intersection are occupied by existing commercial//rural servicing activities, being the Challenge service station and workshop (Lorneville Motors) on the southeast corner, Goldpine Industries outdoor timber and building supplies activity on the southwest corner, and Agricentre farm machinery sales and service activity on the northeast corner.

5. PROCESS

The application, plans and supporting information were received on 28 June 2019. Further information was requested under Section 92 of the Act on 17 July 2019 and this information was provided by the applicant on 22 July 2019.

On 7 August 2019 the Director of Environmental and Planning Services, acting under delegated authority, decided under the provisions of Section 95 of the Resource Management Act 1991 (the Act) that the application required notification under Section 95A.

The reasons for the decision were:

1. Taking into account the exclusions in section 95E, it is considered that the proposed activity is likely to have adverse effects on the environment beyond the adjoining properties that are more than minor.
2. Two submissions in support of the application were received by the time the statutory submission period ended.

6. PLANNING FRAMEWORK

The Proposed Invercargill City District Plan

Decisions on the Proposed District Plan were notified in October 2016. The appeals version of the Plan was released in January 2017, and updated to incorporate changes made through Consent Orders issued by the Environment Court as appeals were resolved. In the time since the application was first lodged with the Council, the Proposed District Plan has now been made fully operative. A copy of the relevant objectives and policies from the Proposed District Plan discussed below are included in full, in **Appendix 2**, to this report. It should be noted that the relevant objectives, policies and rules of the Proposed District Plan were all beyond challenge at the time the application was lodged and therefore can be treated as operative.

As discussed above, the application site is located entirely within the Rural Zone of the Proposed District Plan. Section 2.40 of the Plan states that *“the Rural Zone provides for rural activities such as agriculture, horticulture and forestry and residential activities on larger land allotments that are of sufficient size to effectively deal with the disposal of wastewater on-site, and give a character of openness to the Zone”*.

The application site can be found on Map 2 of the District Planning Maps and the corresponding Hazard Information Maps. The site is not identified as have any special characteristics or values that are specifically provided for within the Proposed District Plan.

Pages 4 to 8 of the Assessment of Environmental Effects (AEE) submitted with the application identifies those provisions of the Proposed District Plan that the proposal does not comply with. The activity requires resource consent for five reasons:

1. The proposed vehicle access to State Highway 98 (Lorne Dacre Road) requires resource consent for a discretionary activity under Rule 3.20.11. This is because the speed limit of this section of the State Highway exceeds 50 kph and the proposed farm vehicle sales and service activity is a non-complying activity.
2. The proposed farm vehicle sales and servicing activity requires resource consent for a non-complying activity under Rule 3.38.3. This is because the proposed activity meets the definition of a rural servicing activity, and rural servicing activity is not otherwise listed as a permitted, discretionary or prohibited activity in the Rural Zone.
3. The proposed signage requires resource consent as a non-complying activity under Rule 3.16.5. This is because the area and height of the proposed freestanding signage exceeds the permitted standards under Rule 3.16.1 by more than 20%, and the sign will be illuminated.
4. The earthworks activities associated with the proposed development of the site require resource consent for a discretionary activity under Rule 3.17.7. This is because the earthworks required do not fit within one of the permitted exemptions listed under Rule 3.17.1 and will exceed the maximum volume of earthworks permitted in the Rural Zone under Rule 3.17.2.
5. While not included in the original application, it is noted that in further information provided by the applicant it is stated that it is likely that noise levels may at LAeq level be breached for brief periods. On that basis it is considered that resource consent as a discretionary activity is also likely to be required under Rule 3.13.18(A) for a breach of the noise limits in Rule 3.13.2.

Overall the activity status for the proposal is considered to be non-complying.

7. SUBMISSIONS

A copy of the two submissions received are attached as **Appendix 1**. Each of the submissions are summarised below.

One of the submitters, Robert and Susan Walker, indicated they do not wish to be heard in support of their submission, and the other, Catherine Croft, indicated she did wish to be heard.

Submitter	Summary of Submission and Relief Sought
Robert and Susan Walker	<p>The submitters identify as the owners of 2137 Winton Lorneville Highway, being one of the two properties that make up the application site.</p> <p>The submitter considers that the proposal will only result in positives for the Lorneville area and is glad to see a Southland owned company investing in what they believe will be a wonderful facility to service the Southland farming community.</p> <p>Relief: The submitter states that the Council needs to give consent to the applicant for the benefit of the Lorneville area and the rural community.</p>
Catherine Croft	<p>The submitter is the owner/occupier of the adjoining property at 2135 Winton Lorneville Highway and has indicated her support to the application but has not provided any reasons for their submission, nor any relief sought.</p>

8. ENVIRONMENTAL EFFECTS

The following consideration of effects on the environment has been carried out in accordance with Section 104(1) of the Resource Management Act 1991. As a non-complying activity, the Council's assessment is unrestricted and all actual and potential effects of the proposal must be considered, with particular consideration given to the guidance contained in the list of assessment matters detailed in the relevant rules of the Proposed District Plan. The main issues relevant to this application relate to the character and amenity values of the Rural Zone, including noise; and effects on the transportation network. Each of these matters are considered in further detail below.

Rural Amenity and Character

The application notes that the proposed development will change the amenity of the northeastern corner of the Lorneville roundabout, although there does not appear to be any discussion as to what that existing amenity is and how it relates to the amenity anticipated by the Proposed District Plan for the Rural Zone. The assessment of the effects on visual amenity concludes that the development will sit well in the existing surrounding environment. The assessment notes the presence of similar rural servicing activities on each of the other three corners of the roundabout, but does not seemingly recognise the rural vistas that dominate the area to the north and east of the roundabout.

It is accepted that the proposed development will be reasonably in keeping with the existing rural servicing developments in the vicinity of the application site, but those existing land uses either benefit from a zoning that now specifically provides for those types of activity (in the case of Agricentre and Goldpine), or, in the case of the service station, are historic developments that pre-date the current planning framework.

It is accepted that not all rural parts of the District are uniformly 'agricultural' in nature and appearance, and in this case, the Lorneville Corner serves as something of a gateway to the city where rural land uses gradually begin to transition into a more urban environment. The Proposed District Plan recognises that this is a key function of this area. It has done this by implementing the Business 5 Zone on the western side of SH6 that specifically enables the establishment of the type of rural servicing activity that is the subject of this application.

The current mixed-use land use pattern in the area is an outcome that is recognised and anticipated by the Proposed District Plan, and the fact that the three other corners of the intersection are occupied by similar rural servicing activities is not considered in itself, to justify the further intensification of non-rural activities in the area. While the western side of SH6 has now been rezoned to Business 5, the Proposed District Plan has retained the Rural Zoning of the application site, a zoning that has existed since at least 2005. Today this zoning helps ensure the area retains some its rural open space characteristics without becoming fully encumbered by commercial development.

To a degree, the proposed development can be considered to replicate the Agricentre development located on the northwestern corner of the intersection. While there are obviously differences in the scale, design and layout of the respective developments, at a higher level they both follow a similar pattern of development. They both consist of large outdoor display areas fronting the road on each arm of the intersection, and a substantial showroom and workshop building further back in the site but orientated towards the corner. Both sites then also have large outdoor storage yards located to the north of the workshop building. As a result, the potential effects on visual and rural amenity can be reasonably well anticipated, and in this case it is considered that the proposal will have significant impact in that regard.

Despite employing setbacks similar to those of the Agricentre development, the scale of the activity proposed is such that the open rural vistas that currently contribute an element of openness to the area will potentially be replaced with close quarters views of large, bulky machinery and another large, dominant commercial building (in addition to the associated signage, security fencing and hard surface areas that are not typical of rural environments). It is accepted that the northern and eastern portions of the site that are to remain in pasture for agricultural use will largely retain their existing rural character. However, the current openness of the site and the vistas to the north and east of the Lorneville corner, an important characteristic of rural amenity, will be significantly reduced. The Lorneville corner area will become more enclosed in nature, a characteristic that is more likely to be anticipated in urban areas. The site will be noticeably more commercial in nature, and include large car parking and hardstand areas, as well as a substantial amount of signage (including a large illuminated pylon sign), both of which are incongruous with the amenity anticipated in the Rural Zone. For this reason, it is considered that the proposed development is likely to have adverse effects on rural amenity and the environment that are more than minor.

Noise

The application includes provision for a large onsite vehicle testing area located to the north of the main building site. The applicant has stated that the vehicle testing area may be used for 30 minutes per day on average, with more testing likely to occur in summer than in winter. It is accepted that the machinery being tested is typical of machinery found on farms throughout the region, and will likely operate for shorter duration than a tractor working on a farm might. However, it is not clear whether the way in which they test the vehicles could mean the characteristics of the noise produced may be different to, for example, a tractor working on a farm under normal operation. Conceivably the tractors could be run at higher engine revs for longer periods of time while testing, compared to what they would while working on a farm. It is also considered that the frequency with which the tractors will be operating in the testing area could also be more regular than what

would be expected on a farm, where vehicles may be more likely to move around larger sites and be less likely to operate as frequently in one place.

The further information provided by the applicant has stated the typical noise levels from a tractor are 97 dB LAeq at the source, and so based on the inverse square law, noise levels will be 70 dB at the property boundary, and 61 dB at the closest dwelling. No evidence has been supplied to validate these figures, and it is not clear whether the noise levels represent a tractor operating at full engine revs. It is also not clear whether the stated anticipated noise level at the closest dwelling applies to the dwelling itself, or the notional boundary. Regardless, the applicant has said that while LMax levels will not be breached, it is likely that noise levels may, at LAeq, be breached for brief periods.

It is noted that the neighbours located in closest proximity to the testing area have provided their written approval to the application, and so the effects of the noise on them cannot be considered. However, there is potential for the noise to be of a nature that is beyond what is anticipated in the rural environment. With the likelihood of even occasional breaches of the applicable standard, it is considered that the vehicle testing activity has potential for adverse effects on rural amenity that are more than minor. Locating the testing area in close proximity to the property boundaries and nearby dwellings may not be the best practicable option to ensure that the noise does not exceed a reasonable level, as per Section 16 of the Act.

Transportation

The application has proposed that access to the site will be via a single vehicle crossing off Lorne Dacre Road. This crossing point will be in a similar position to the existing vehicle crossing on the eastern side of the site, but will be slightly closer to the roundabout. The application also notes that the other existing access to the site will no longer be needed, and as such the existing right of way easement that provides the legal mechanism for this access to occur will be extinguished.

The application has also stated that it is expected that the average number of clients visiting the site will be three per hour, which extended over an eight-hour work day will be approximately 24 clients per day. In addition to this, the site will accommodate up to 27 staff, giving a total of approximately 51 people coming to the site on a daily basis. Assuming most of these visitors to the site will only be making one trip, the total number of vehicle movements to and from the site will be approximately 102. The application has noted that most of these movements will enter and egress the site from a westerly direction (i.e. from the Lorneville Corner roundabout), though there will still be some, who come from an easterly direction along Lorne Dacre Road, particularly clients.

While no traffic data for Lorne Dacre Road has been provided with the application, it is accepted that it has much lower volumes of traffic than both the Winton Lorneville Highway and the Wallacetown Lorneville Highway. The amount of traffic movements associated with client visits to the site is modest. With these visits likely to be spread over the course of the day, the adverse effects resulting from these traffic movements are likely to be no more than minor. The majority of vehicle movements to and from the site are likely to be concentrated to times at the beginning and end of the day. During these periods there may also be a greater amount of general traffic on the Lorne Dacre Road. However, with most of these movements in the morning not likely to involve crossing the highway, the impact on the transportation network during that period will be no more than minor. The vehicle movements associated with staff leaving the site at the end of the day and crossing the highway is likely to be when the activity has the greatest impact on the transportation network. However, provided the access is constructed in accordance with the location and standards required by NZTA, the impact on the safety and functioning of the State Highway will be acceptable.

The New Zealand Transport Agency has considered the application and provided their written approval on the basis of the conditions that the applicant has promoted in order to manage the potential adverse effects in the State Highway. Subject to the imposition of these conditions, it is considered that overall the adverse effects of the proposed activity on the functioning and safety of the transportation network are minor.

Positive Effects

It is accepted that the proposed activity will result in positive environmental outcomes in that it will result in the cessation of an existing rural service activity occurring in an urban environment to which it is not best suited. The existing JJ's Machinery operation is located in an area within Invercargill's urban environment that is in close proximity to a high density of residential activity. The current site is also not particularly accessible for the activity's rural based clientele. The proposed development would result in the activity being located in closer proximity to their client base on a site that is easier to access, while also providing more space and a greater separation distance to noise sensitive residential activities to help minimise the effects of the activity on others.

Vacating the present site will also free up a reasonable sized site in the Business 3 Zone that may then be better utilised by a more appropriate activity requiring an urban location that has a presence on a State Highway route.

Consideration of Alternatives

The application does not provide any assessment of potential alternative locations or methods for the proposed activity, although it does provide an explanation as to the unsuitability of remaining on their existing site in the inner city. It is noted that the District Plan has included a zone, known as the Business 5 Zone, which was developed specifically to provide for rural service activities of the type the applicant is proposing.

The Business 5 Zone applies to two areas of land in the Lorneville Corner area. One is located on the southwest side of the roundabout, and extends south as far as, but not including, the Prime Range Meats site at 808 North Road. This area is currently occupied by Goldpine and the Claas Harvest Centre. The other is located on the northwest corner of the roundabout and is currently occupied by Agricentre and Noel McIntyre Drainage. Both of these areas, but in particular the area to the southwest, have large areas (at least 25 hectares) of appropriately zoned and accessible vacant land available for the development of additional rural servicing activities.

Cumulative Effects

It is noted that large parts of the Rural zoned land on the eastern side of State Highway 6 between the Lorneville roundabout and Beaconsfield Road are occupied by non-rural land uses, including a farm machinery sales activity similar in nature to that proposed by this application. The history of non-rural land uses in this area pre-dates the first-generation District Plan prepared under the Resource Management Act 1991. The Lorne Dacre Road and Lorneville Corner roundabout provide a useful boundary within which to contain the extent of these non-rural land uses, with the land to the north of the intersection dominated by rural and residential land uses.

The proposed activity will mean that non-rural land uses will effectively 'jump' the highway into an area that is currently predominantly rural. While it is accepted the character and amenity of the rurally zoned land south of the roundabout is more mixed use in nature, the extension of additional non-rural activities to the north side of the roundabout will have a significant cumulative effect and further degrade the rural character and amenity values of the area.

9. STATUTORY CONSIDERATION

Section 104(1) sets out the matters which the Council must have regard to when considering an application for a resource consent:

When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to-

- (a) any actual and potential effects on the environment of allowing the activity; and
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
- (b) any relevant provisions of-
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand coastal policy statement;
 - (v) a regional policy statement or proposed regional policy statement;
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Part 2 of the Resource Management Act 1991

Part 2 of the Act sets out its purpose and principles. The purpose of the Act is described in Section 5 as *to promote the sustainable management of natural and physical resources*.

Sustainable management is defined in the same section as:

managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being while:

- (a) *Sustaining the potential of natural and physical resources to meet the foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Section 6 lists the matters of national importance that need to be recognised and provided for when making decisions under the Act, while Section 7 lists other matters that particular regard is to be given to, and Section 8 requires the principles of the Treaty of Waitangi to be taken into account.

I do not consider there to be any matters of national importance in Section 6 of the Act that are directly relevant to this application.

The matters in Section 7 of the Act that I consider to be relevant to this application are:

- (b) *the efficient use and development of natural and physical resources*
- (c) *the maintenance and enhancement of amenity values*
- (f) *maintenance and enhancement of the quality of the environment*

The effects of the proposal on rural character and amenity values and the transportation network are discussed in the sections above.

No cultural matters under Section 8 arise in the consideration of this proposal and local Iwi have not lodged a submission on the application.

Overall, as discussed in the assessment of environment effects above, it is considered that the application does not meet the purpose and principles of the Act as the adverse effects of the activity on the environment, particularly adverse effects on rural amenity, have not been adequately avoided, remedied or mitigated. The activity does not, therefore, encourage sustainable management.

National Environmental Standards, National Policy Statements and other Regulations

Regard has been given to all existing national environmental standards, national policy statements and other regulations. It is considered that there are no standards, policy statements or other regulations relevant to this application.

Southland Regional Policy Statement 2017

Regard has been given to the Southland Regional Policy Statement 2017 (RPS). The provisions below are considered to be the most relevant to the application.

Objective RURAL.1 - Sustainable use of rural land resource

Achieve sustainable use of Southland's rural land resource, in respect of:

- (a) Agriculture and primary sector activities;
- (b) Subdivision, use and development activities;
- (c) Earthworks and vegetation clearance activities;
- (d) The use of soil resources;
- (e) Mineral extraction activities; and
- (f) On-site wastewater systems.

Objective RURAL.2 - Life-supporting capacity of soils

Safeguard the life-supporting capacity, mauri and health of soils in rural areas, and prevent or minimise soil erosion and sedimentation from land use soil disturbance.

Policy RURAL.1 - Social, economic and cultural wellbeing

Recognise that use and development of Southland's rural land resource enables people and communities to provide for their social, economic and cultural wellbeing.

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

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

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

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

Objective TRAN.1 - Transport and land use

Development of transport infrastructure and land use take place in an integrated and planner manner which:

- (a) Integrates transport planning with land use;
- (b) Protects the function, safety, efficiency and effectiveness of the transport system;
- (c) Minimises potential for reverse sensitivity issues to arise from changing land uses;
- (d) Provides for positive social, recreational, cultural and economic outcomes;
- (e) Minimises the potential for adverse public health and environment effects;
- (f) Enhances accessibility and connectivity, maximising transport choice for users of the transport system.

Policy TRAN.3 - Integration of existing and future transport infrastructure

Integrate land use planning with transport infrastructure planning and make provision for future transportation requirement.

Comment: The application notes that *“the proposed activity provides a service for the rural sector, allowing for the sale and servicing of farm machinery within a rural area and along significant transport routes”*. It is accepted that although the development would be taking part of the application site out of productive use, the proposed activity will continue to contribute to the economic wellbeing of Southland’s rural sector in accordance with Policy RURAL.1.

With respect to rural character and amenity, the application concludes that the development overall will be in keeping with existing development on the three other corners of the Lorneville roundabout and will therefore not unduly affect the amenity of the area. Policy RURAL.2 specifically requires the maintenance or enhancement of rural amenity values and character. With the exception of the application site, the existing character and amenity of the other parts of Lorneville roundabout are industrial and commercial in nature, the previous rural amenity having been eroded over time as the area has been developed. While the commercialisation of the application site, the only “rural” part of the roundabout area, may not have an undue effect on the existing commercial/industrial parts of Lorneville corner, overall it will not serve to enhance the remaining rural character and amenity of the area. In fact, the establishment of further commercial activity in the area on a site that offers the last truly rural outlook and character will further degrade rural amenity, contrary to Policy RURAL.2.

Policies RURAL.1 and RURAL.4 relate to the management of the region’s soil resource, and in particular the protection of high value soils. While the proposal will take a portion of the application site out of production, the balance of the site is to remain utilised for agricultural activity. It is also noted that while the portion of the site which will be occupied by the proposed activity is identified as being within in an area of high value soils, the overall area of soils impacted is relatively small. For that reason, the proposal is not considered an inappropriate development in terms of its effects of high values soils.

The proposal has included vehicle access provisions that, subject to conditions of consent, will ensure the proposal does not unduly impact on the safety and functioning of the transport network. Additionally, the NZTA as road controlling authority for the two state highways that adjoin the site, has given written approval to the application. The proposal is therefore considered to be consistent with the Transport provisions of the RPS.

Overall, the proposal is considered contrary to the objectives and policies of the RPS relating to rural character and amenity, but in accordance with all other RPS objectives and policies.

Proposed Invercargill City District Plan 2016

Decisions on the Proposed Invercargill City District Plan 2016 (Proposed District Plan) were released in October 2016. The appeals version of the Plan was released in January 2017 and has been updated to incorporate changes made through Consent Orders issued by the Environment Court as appeals have been resolved. A copy of the applicable objectives and policies from the Proposed District Plan discussed below are included in full in **Appendix 2** to this report. The following provisions relating to the Rural Zone and Transportation are considered the most relevant:

Soil, Minerals and Earthworks

Objective 1: *Invercargill’s soils are managed sustainably.*

Policy 3 **Protection of high value soils:** *To protect the District’s high value soils from the expansion of urban development.*

Transportation

Objective 1: *Development of transport infrastructure and land use take place in an integrated and planner manner which:*

- (a) *Integrates transport planning with land use;*
- (b) *Protects the function, safety, efficiency and effectiveness of the transport system;*
- (c) *Minimises potential for reverse sensitivity issues to arise from changing land uses;*
- (d) *Provides for positive social, recreational, cultural and economic outcomes;*
- (e) *Minimises the potential for adverse public health and environment effects;*

Policy 1 **Infrastructure:** *To provide for the safe and efficient operation, improvement and protection of transport infrastructure.*

Policy 5 **Adverse effects:** *To manage subdivision, use and development adjacent to transport infrastructure in such a way as to avoid, remedy or mitigate potential effects, including reverse sensitivity effects on transportation infrastructure.*

Policy 6 **State highways:** *To have regard to any New Zealand Transport Agency standards regarding the location of new accesses on to, and egresses from, State Highways where the speed limit exceeds 50 kph.*

Rural Zone

Objective 1: *The rural environment is maintained and enhanced while allowing for productive rural activities to be undertaken.*

Objective 2: *Provide for the use and development of land within the rural area while maintaining, and where practical enhancing, amenity values*

Policy 1 **Rural Zone:** *To require rural allotments to be of a size and nature than enables rural activities and maintains the rural character and visual amenity of the Rural Zone.*

Policy 3 **Non rural activities:** *To avoid activities that do not have a need to locate within the Rural Zone and which would result in adverse effects inconsistent with the function, character and amenity provided for by the Rural Zone.*

Comment: The provisions of the Proposed District Plan that relate to the high value soils, the transportation network and the character and amenity of the Rural Zone seek the same, or very similar, outcomes to the RPS. The District Plan provisions are, however, much stronger and more directive than those of the RPS, particularly with respect to non-rural activities in the Rural Zone. Policy 3 seeks to avoid non-rural activities establishing in the Rural Zone if they do not have a need to locate there and they have adverse effects that conflict with the values of the Rural Zone. In my view the application has not clearly demonstrated that the proposal is consistent with either of those two qualifiers.

While the application provides a thorough explanation as to the benefits of moving the activity from its current urban location, it is not clear why the activity must locate in the Rural Zone as opposed to the nearby Business 5 Zone that has been specifically zoned for the type of activity the applicant is proposing. Similarly, the application has concluded that, taking into account the existing rural servicing activities in the area, the effects of the

proposal on the visual amenity will be no more than minor. However, it has not clearly been demonstrated that the effects of introducing a large commercial development on land that is currently characterised by large, open vistas that are an important feature of the Rural Zone, will have no undue impact on that rural amenity.

As discussed above, the proposal has provided appropriate vehicle access arrangements that are to the satisfaction of the road controlling authority. This will ensure that in accordance with the objectives and policies relating to Transportation, the effects of the activity on the functioning and safety of the transportation network are mitigated.

Overall, the application as it currently stands is considered to be contrary in part to the objectives and policies of the Proposed District Plan relating to the Rural Zone, but in accordance with the all other objectives and policies

Section 104D of the Resource Management Act 1991

Under Section 104 of the Resource Management Act 1991, before making a decision whether or not to grant a resource consent application for a non-complying activity, a consent authority must be satisfied that either the adverse effects of the activity on the environment will be minor (s104 (1)(a)), or the proposed activity will not be contrary to the objectives and policies of a proposed plan and/or plan (s104 (1)(b)).

This consideration for non-complying activities is commonly known as the 'threshold test' or the 'gateway test'. If either of the limbs of the test can be passed, then the application is eligible for approval, but the proposed activity must still be considered under Section 104.

Overall, in my opinion, the application does not pass either arm of the gateway test. The application site currently retains a rural character and amenity and there is insufficient evidence to support the applications position that the proposal will not unduly impact on this. Given the potential for the activity to further degrade the amenity of the Rural Zone, and the availability of appropriately zoned land nearby, I do not consider that the application has sufficiently demonstrated that the site is an appropriate location for the activity. As such, I consider the proposal does not adequately mitigate the significant adverse effects on the environment and is contrary to the objectives and policies of the Proposed District Plan, the Regional Policy Statement, and the purpose and principles of the Act.

10. CONCLUSION

The proposal is for land use consent to establish and operate a rural servicing activity in the form of a farm sales and servicing activity in the Rural Zone. The key issue for the application is whether the commercialisation of the site as proposed will maintain and enhance the rural environment without having adverse effects that are inconsistent with the function, character and amenity of the zone.

Having considered the scale of both the potential adverse effects and positive effects of the proposal, and evaluated their significance against the objectives and policies of the Proposed District Plan I consider the application in its current form to be contrary to Part 2 of the RMA as it does not promote sustainable management. Based on these conclusions, resource consent to the application should be declined.

11. RECOMMENDATION

It is recommended that on the basis of the information provided with the application to date and for the reasons outlined above, the application is declined under Sections 104 and 104D of the Act for the following reasons:

1. Adverse effects relating to rural character and amenity are not minor.
2. The proposal is contrary to the objectives and policies of the Proposed District Plan.
3. The proposal does not promote sustainable management.

APPENDIX 1 - Copy of Submissions

Submission On An Application for Resource Consent Publicly Notified Under Section 95(A) or Notice Which Is Served Under Section 95(B)



SECTIONS 41D, 95(A), 95B, 95C, 96, 127(3) AND 234(4) RESOURCE MANAGEMENT ACT 1991

Submitter Details

Full name and address ROBERT HENRY and SUSAN JOAN WALKER
50 SMITH ROAD, LOCHIEL, R.D.1, WINTON
Email Address* robsuewalker@gmail.com
Contact Phone Number 027 334048
Postal Address 50 SMITH ROAD, LOCHIEL,
R.D.1. WINTON. 9781



* All Council correspondence will be sent to the email address provided.

Application Details

This is a submission on an application from
Full Name of Applicant JS LIMITED
Details of application (Briefly describe the proposed activity) TO ESTABLISH AND OPERATE A FARM
MACHINERY AND SERVICING BUSINESS.
Location of the application 27 LORNE-DACRE ROAD AND 2137 WINTON LORNEVILLE
HIGHWAY

Submission

My submission is to include
 I support the application
 I am neutral regarding the application or specific parts of it
 I oppose the application or specific parts of it
WE SUPPORT THE APPLICATION BECAUSE WE CAN ONLY SEE
POSITIVE RESULTS FOR THE LORNEVILLE AREA.
ITS GREAT TO SEE A SOUTH-LAND OWNED COMPANY
PREPARED TO INVEST IN WHAT WILL BE A WONDERFULL



Submission - Continued

The reasons for my submission are [continue on separate page if required]

FACILITY TO SERVICE THE SOUTHLAND FARMING
COMMUNITY.

My submission would be met by the Council making the following decision;
(give precise details, including the general nature of any conditions sought. Continue on separate page if required).

THE COUNCIL NEEDS TO GIVE CONSENT TO THIS APPLICANT
FOR THE ESTABLISHMENT OF THIS FARM SERVICING
BUSINESS FOR THE BENEFIT OF THE LORNEVILLE AREA,
AND THE RURAL COMMUNITY.

I do do not (tick one) wish to be heard in support of my submission.
(A hearing of the application may not occur if all affected parties state that they do not wish to be heard).

If others make a similar submission, I will will not (tick one) consider presenting a joint
case with them at a hearing.

I am am not (tick one) a trade competitor for the purposes of section 308B of the
Resource Management Act 1991 (refer to note to submitter)



Note to Submitter

- The closing date for serving a submission on the Council is the 20th working day after public or limited notification is given.
- You must serve a copy of your submission on the applicant as soon as reasonably practicable after you have served your submission on the Council.
- If you are a trade competitor your right to make submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.
- If you make a request under section 100 of the Act for a Hearing Commissioner to hear this application, you must do so in writing to the Council no later than 5 days after the close of submissions. You may be liable to meet or contribute to the costs of the Hearings Commissioner.

Your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following matters apply to the submission or part of the submission.

- it is frivolous or vexatious.
- it discloses no reasonable or relevant case.
- it would be an abuse of the hearing process to allow the submission (or the part of the submission) to be taken further.
- it contains offensive language.
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Signature of Submitter



Signature of person making submission or person authorised to sign on behalf of person making submission.
(Signature is not required if the submission is made by electronic means).

29th AUG 2019
(Date Submitted)

Send the completed submission or hand in to us at:

Environmental and Planning Services
Invercargill City Council
Private Bag 90104
Invercargill
Email: ResourceConsents@icc.govt.nz

Submission On An Application for Resource Consent Publicly Notified Under Section 95(A) or Notice Which Is Served Under Section 95(B)



SECTIONS 41D, 95(A), 95B, 95C, 96, 127(3) AND 234(4) RESOURCE MANAGEMENT ACT 1991

Submitter Details

Full name and address

Catherine Margaret Croft, 2135 Lorneville/Winton Hwy, Invercargill.

Email Address* cathycroft77@yahoo.co.nz

Contact Phone Number 022 1011 654

Postal Address 2135 Lorneville/Winton Hwy, R.D.6, Invercargill

* All Council correspondence will be sent to the email address provided.

Application Details

This is a submission on an application from

Full Name of Applicant JJ Ltd Development.

Details of application (Briefly describe the proposed activity) Farm machinery sales and service.

Location of the application 27 Lorne Dacre Rd, and 2137 Winton Lorneville Highway, Invercargill.

Submission

My submission is to include

- I support the application
- I am neutral regarding the application or specific parts of it
- I oppose the application or specific parts of it

I would like to attend the hearing, thank you.



Submission - Continued

The reasons for my submission are [continue on separate page if required]

My submission would be met by the Council making the following decision;
(give precise details, including the general nature of any conditions sought. Continue on separate page if required).

I do do not (tick one) wish to be heard in support of my submission.
(A hearing of the application may not occur if all affected parties state that they do not wish to be heard).

If others make a similar submission, I will will not (tick one) consider presenting a joint case with them at a hearing.

I am am not (tick one) a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (refer to note to submitter)

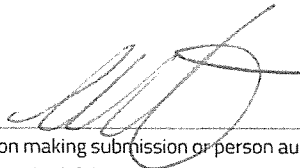
Note to Submitter

- The closing date for serving a submission on the Council is the 20th working day after public or limited notification is given.
- You must serve a copy of your submission on the applicant as soon as reasonably practicable after you have served your submission on the Council.
- If you are a trade competitor your right to make submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.
- If you make a request under section 100 of the Act for a Hearing Commissioner to hear this application, you must do so in writing to the Council no later than 5 days after the close of submissions. You may be liable to meet or contribute to the costs of the Hearings Commissioner.

Your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following matters apply to the submission or part of the submission.

- it is frivolous or vexatious.
- it discloses no reasonable or relevant case.
- it would be an abuse of the hearing process to allow the submission (or the part of the submission) to be taken further.
- it contains offensive language.
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Signature of Submitter



Signature of person making submission or person authorised to sign on behalf of person making submission.
(Signature is not required if the submission is made by electronic means).

11/09/19
(Date Submitted)

Send the completed submission or hand in to us at:

Environmental and Planning Services
Invercargill City Council
Private Bag 90104
Invercargill
Email: ResourceConsents@icc.govt.nz

**APPENDIX 2 - Relevant Objectives and Policies of Proposed Invercargill City District Plan
2016**

Objectives and Policies

The most relevant objectives and policies from the Proposed Invercargill City District Plan 2016 include:

2.13 SOILS, MINERALS AND EARTHWORKS

2.13.2 Objectives

Objective 1: Invercargill's soils are managed sustainably.

Objective 3: Earthworks in Invercargill are carried out in such a way as to avoid, remedy or mitigate adverse environmental effects.

Objective 4: On-site waste water disposal systems are designed, sited, operated and maintained in such a way as to avoid adverse environmental and public health effects.

2.13.3 Policies

Policy 1 Soil: Promote sustainable soil and land use development and management practices, particularly those that:

- (A) Maintain or improve soil properties.
- (B) Minimise soil loss from erosion or earthworks.
- (C) Minimise soil compaction and nutrient loss.
- (D) Reduce soil disturbance.
- (E) Maintain or improve water quality.
- (F) Maintain or improve indigenous biodiversity.

Explanation: *The soil resource is the basis of much of the region's economic activity and wealth and for day to day production of food. Promotion of the sustainable use of Invercargill's soils will help ensure the soil resource is working to its full potential and provide the desirable range of productive uses.*

Policy 2 High value soils: To identify the high value soils of the District and to delineate these on the District Planning Maps.

Explanation: *The 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 high value soils: To protect the District's high value soils from the expansion of urban development.

Explanation: *The District's high value soils are an important resource that should be kept available for the production of food. Urban expansion typically reduces high value 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.

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

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

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

***Explanation:** 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 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.*

2.17 TRANSPORTATION

2.17.2 Objectives

Objective 1: Development of transport infrastructure and land use takes place in an integrated and planned manner which:

- (A) Integrates transport planning with land use.
- (B) Protects the function, safety, efficiency and effectiveness of the transport network.
- (C) Minimises potential for reverse sensitivity effects to arise from changing land uses.
- (D) Provides for positive, social, recreational, cultural and economic outcomes.
- (E) Minimises where practical the adverse public health and environmental effects.

2.17.3 Policies

Policy 1 Infrastructure: To provide for the safe and efficient operation, improvement and protection of transport infrastructure.

***Explanation:** Transport infrastructure is essential to the ongoing viability of most land uses and also to the functioning of the City.*

Policy 3 **Roading hierarchy:** To have regard to the Council's Roding Hierarchy when considering subdivision, use and development of land.

***Explanation:** The Council's Roding Hierarchy is part of the Roding Asset Management Plan and can be found on the Council's website. The frequency and nature of vehicle movements along a road determines how that road must be managed and how adjacent land uses activities can use the road. The Roding Hierarchy also encourages heavy transport and the associated noise effects away from noise-sensitive areas of the District.*

Policy 5 **Adverse effects:** To manage subdivision, use and development adjacent to transport infrastructure in such a way as to avoid, remedy or mitigate potential effects, including reverse sensitivity effects on transportation infrastructure.

***Explanation:** Controls are necessary so that the effects of subdivision and land use activities are not incompatible with the safe and efficient operation of transportation networks. There is a range of activities that can affect the transportation network including land practices which encourage the congregation of birds near flight paths, land modification which creates wind shear affecting aeroplanes, and obstruction of sightlines along intersections and level railway crossings.*

Policy 6 **State highways:** To have regard to any New Zealand Transport Agency standards regarding the location of new accesses on to, and egresses from, State Highways where the speed limit exceeds 50 kph.

***Explanation:** It is important not to compromise the efficiency of the State Highway network. Under Section 51 of the Government Roding Powers Act 1989, works on State Highways cannot be undertaken without the written permission of the New Zealand Transport Agency.*

Policy 9 **Integration:** To integrate the planning of land use with existing transport infrastructure and provide for future transportation requirements.

***Explanation:** Integrated planning will ensure the safe, efficient and effective use of the existing transport infrastructure is maintained and allow for future transport infrastructure needs where these can be determined. Measures are required to prevent ribbon development along transport infrastructure, avoid the need for additional access points to strategically important roads and to provide or maintain buffer zones between development and existing transport infrastructure so as to prevent reverse sensitivity issues arising.*

Policy 11 **Significant transportation networks:** To recognise that the Invercargill Airport, Seaport, Railway, State Highway, and the arterial roads which link this infrastructure are regionally significant transportation networks and are essential to the ongoing viability and functioning of the District.

***Explanation:** It is important for these regionally significant transportation networks to be maintained and protected to ensure efficient ongoing land uses of the District and the functioning of the City.*

2.18 WATER

2.18.2 Objectives

Objective 1: Water quality and water quantity are not significantly adversely affected by subdivision, use and development of land.

2.18.3 Policies

Policy 1 General: To require that the adverse effects of subdivision and land use activities on water quantity and quality are avoided, remedied or mitigated.

***Explanation:** District planning is concerned with the integrated management of resources, and managing effects of the use, development and protection of land and associated resources. In carrying out specific responsibilities under the RMA, the Council should have regard to water quality and water quantity related matters.*

There is a variety of regulatory and non-regulatory methods available to assist the management of the effects of subdivision and land use on water quantity and water quality. Rules may be imposed, for example on the amount of impermeable surface and/or requiring the provision of rain gardens and stormwater tanks, to take the peak off storm events and to limit the effect of runoff carrying contaminants.

Policy 7 Fire hazard: To minimise fire hazard for people and property in the District by requiring adequate on-site water storage where the Council's fully reticulated water service is not available and encouraging the installation of domestic sprinkler systems.

***Explanation:** The earlier a fire can be detected and addressed, the less damage is done and less water is required to fight it. In non-reticulated areas of the District, it is important that there is an adequate supply of water on-site to minimise the damage caused by fire, particularly for residential buildings. This supply should be compatible with the New Zealand Fire Service Standards.*

2.21 BUSINESS OVERVIEW

2.21.2 Objectives

Objective 1: Maintenance of the hierarchy of business areas reflecting their different functions.

Objective 2: Businesses will locate and group in the appropriate Zones for those businesses.

Objective 3: Critical mass will be maintained in each of the business groupings.

Objective 4: The pattern of business activity will not become dispersed.

2.21.3 Policies

Policy 1 Hierarchy: To restrict the range and scale of activities within each business Zone.

***Explanation:** Council has identified a hierarchy of business areas in order to prevent the erosion of critical mass from the business Zones and to support the hierarchy of business centres in general and the City Centre in particular.*

Policy 2 Zoning: To discourage businesses locating in isolation outside of the business groupings.

***Explanation:** Grouping businesses within specific Zones protects the amenity values of these Zones and helps prevent erosion of the amenities of other Zones.*

2.40 RURAL ZONE

The Rural Zone provides for rural activities such as agriculture, horticulture and forestry and residential activities on larger land allotments that are of sufficient size to effectively deal with the disposal of wastewater on-site, and give a character of openness to the Zone. As such it comprises a dynamic working environment within which productive primary use is the dominant land use.

The Rural Zone contains higher quality and versatile soils, particularly in the north, for which it is desirable to keep options open for productive rural activities.

Non-rural land use activities are not always compatible with rural primary production activities and can give rise to reverse sensitivity effects and limit the productivity of rural land.

Greenfield residential development in the Rural Zone can lead to a demand for extensions to urban services that can be expensive to provide and need to be carefully considered.

Instead urban development should be encouraged to locate within the existing built up environment and where provision is made for large lot housing.

The southern parts of the Zone contain nationally significant landscapes and include the Awarua wetlands.

2.40.1 Issues

The significant resource management issues for the Rural 1 Zone:

1. The amenity of the rural area can be adversely affected through subdivision and consequent development and/or by reverse sensitivity.
2. Rural-residential subdivision and development can limit the use of the rural land resource for primary production activities.
3. Conflict between rural and non-rural activities can adversely affect rural productivity.
4. Long-term pressures for urban expansion can adversely affect the character of the Rural Zone and lead to demands for urban services.
5. Sporadic subdivision can lead to poor connectivity and adverse effects on existing infrastructure.

- | |
|--|
| <p>6. Ongoing problems can occur with on-site sewage disposal systems, especially on smaller sites.</p> <p>7. Connection to the Council’s sewerage reticulation system can create ongoing cost to ratepayers for expanded services</p> |
|--|

2.40.2 Objectives

Objective 1: The rural environment is maintained and enhanced while allowing for productive rural activities to be undertaken.

Objective 2: Provide for the use and development of land within the rural area while maintaining, and where practical enhancing, amenity values.

Objective 3: New urban development within the Rural Zone only occurs within the areas identified in Appendix XV and in general accordance with an operative outline development plan included in the District Plan through an approved Plan Change, and only when adequate servicing and infrastructure is available.

Objective 4: New urban development within the land identified in the District Planning Maps as the Rural Zone (deferred Residential 4 Zone) only occurs once Council’s reticulated sewerage services and footpaths have been extended in accordance with the relevant Concept Plan in Appendix X and developed comprehensively for the area as a whole.

2.40.3 Policies

Policy 1 Rural Zone: To require rural allotments to be of a size and nature that enables rural activities and maintains the rural character and visual amenity of the Rural Zone.

Policy 2 Rural activities: To provide for rural activities to establish and operate within the Rural Zone.

Policy 3 Non rural activities: To avoid activities that do not have a need to locate within the Rural Zone and which would result in adverse effects inconsistent with the function, character and amenity provided for by the Rural Zone.

***Explanation:** The primary purpose of the Rural Zone is to provide for rural activities such as agriculture, horticulture and forestry. A minimum lot size of two hectares for rural properties will provide for sustainable “lifestyle” properties that are not connected to reticulated services. These activities give a characteristic of openness to the area. Regulatory controls will ensure that the amenity of the Rural Zone is maintained and enhanced to provide for the ongoing operation of rural production activities.*

Policy 4 Soils: To maintain the life supporting capacity and productive value of the soil resource in the Rural Zone.

***Explanation:** Fragmentation of rural properties, non rural land uses and poor soil management practices can reduce the productive use of land in the Rural Zone.*

Policy 5 Historical sections: To allow a single dwelling on sites under two hectares which existed with a Certificate of Title issued prior to 29 October 2016 and which can be connected to the Council’s reticulated sewerage system.

Explanation: *This policy is to ensure that owners of sections which existed prior to the introduction of controls on lot sizes are able to use their land.*

Policy 6 Deferred zoning: To identify an area within the Rural Zone for an additional residential zone that will not become operative until a Council resolution has been passed that it is satisfied that the footpaths and Council's reticulated sewerage system have been extended in accordance with the relevant Concept Plan detailed in Appendix X. Council accepts no responsibility for the costs involved in the extension of these services.

Explanation: *An area is identified on the District Planning Maps as Rural Zone (deferred Residential 4 Zone). The intended future use of the land in this area includes low-density residential development. However, until the development of the reticulated sewerage services is complete, the Rural Zone provisions will continue to apply. Footpaths are also a prerequisite before the deferred status is removed for the Residential 4 Zone provisions. The comprehensive development of the reticulated sewerage services and the footpaths are necessary to ensure that the services are put in place in an efficient and effective manner and so that landowners and developers can spread the costs equitably between them. Council accepts no responsibility for the costs of extending the services.*

The development, operation, maintenance, upgrading and replacement of infrastructure is provided for in the Invercargill City Council Bylaw 2016/1 Code of Practice for Land Development and Subdivision Infrastructure and require authorisation pursuant to that bylaw. Infrastructure intended to be vested in Council ownership, unless otherwise approved, is required to be designed and constructed to meet the requirements of the Bylaw.

The removal of the deferred status and commencement of the Residential 4 Zone is effected by resolution of Council when the required services have been provided to the satisfaction of the Council. At the date of the Council resolution, the District Plan will be amended without formality and the Residential 4 Zone will become operative. The Council will advise landowners when it has made a resolution.

Policy 7 Deferred Zone Infrastructure – transportation: Within the area identified on the District Planning Maps as Rural Zone (deferred Residential 4 Zone), to provide for alternative modes of transport by methods such as requiring a footpath be developed along the length of the eastern side of Retreat Road in accordance with the relevant Concept Plan in Appendix X prior to the zone becoming operative.

Explanation: *Within the area identified on the District Planning Maps as Rural Zone (deferred Residential 4 Zone), there is no immediate expectation that the road traffic speed will be reduced, and therefore, providing a safe environment for alternative modes of transport will be important within this area.*

A footpath along Retreat Road will provide for the safety of all road users and will ensure connectivity of infrastructure, linking future development within the area with the existing footpath network. Similarly, a footpath linking the properties on McIvor Road with the existing development on Inverurie Drive will be required. The footpaths are to be developed at no cost to the Council before low-density residential development can be considered.

The development, operation, maintenance, upgrading and replacement of infrastructure is provided for in the Invercargill City Council Bylaw 2016/1 Code of Practice for Land Development and Subdivision Infrastructure and require

authorisation pursuant to that bylaw. Infrastructure intended to be vested in Council ownership, unless otherwise approved, is required to be designed and constructed to meet the requirements of the Bylaw.

Policy 8 Deferred Zone Infrastructure – reticulated sewerage: Within the area identified on the District Planning Maps as Rural Zone (deferred Residential 4 Zone), to require the Council’s reticulated sewerage services be extended in accordance with the relevant Concept Plan in Appendix X prior to the zone becoming operative.

Explanation: *On-site wastewater management is not appropriate within this area of the city on properties with an area of less than two hectares. Therefore, before low-density residential development can occur Council’s reticulated sewerage system will need to be available. To ensure equitable sharing of costs and to avoid sporadic development of the services, reticulated sewerage services shall be extended to the area identified as Rural Zone (deferred Residential 4 Zone) before low-density residential development can be considered. The Concept Plan for the land within the Rural Zone (Deferred Residential 4 Zone) in Appendix X details where the reticulated sewerage services are to be installed to service the Zone.*

The development, operation, maintenance, upgrading and replacement of infrastructure is provided for in the Invercargill City Council Bylaw 2016/1 Code of Practice for Land Development and Subdivision Infrastructure and require authorisation pursuant to that bylaw. Infrastructure intended to be vested in Council ownership, unless otherwise approved, is required to be designed and constructed to meet the requirements of the Bylaw.

Policy 9 Deferred Zone Infrastructure – costs: Within the area identified on the District Planning Maps as Rural Zone (deferred Residential 4 Zone), to require developers to pay for any extensions and connections to the Council’s infrastructure services, and any consequential upgrades, at full cost to them and with no contribution from the Council.

Explanation: *Council has no intention of paying for extensions or connections to its services within this area of the District. The developer will bear the responsibility of installing the required infrastructure and any consequential upgrades to that infrastructure before the development of this Zone to allotments with an area of less than two hectares is provided for. The infrastructure, unless otherwise approved, will be required to be constructed in accordance with the standards and procedures set out in the Council’s Bylaw 2016/1 Code of Practice for Land Development and Subdivision Infrastructure.*

Policy 10 Outline Development Plans: To identify areas within the Rural Zone for long term urban development as Outline Development Plan Areas. Within these areas development does not proceed until an operative Outline Plan for that area has been included within the District Plan and adequate servicing and infrastructure is available.

Explanation: *“Outline Development Plan Areas” are identified in the District Plan as the preferred areas for any future greenfield residential growth. The reason for providing them is to enable the City to respond, reasonably quickly and in a considered way, to any future pressure for residential growth.*

These areas have been identified because they connect directly to existing Invercargill City Council infrastructure and services which have capacity for growth, and immediately adjoin residential areas.

The process envisaged for enabling development of one of the Outline Development Plan Areas would involve a request for a Plan Change that would need to set out how the land is to be developed in accordance with the Objectives and Policies of the District Plan. Development will not proceed until the Plan Change has been approved.

Policy 11 Outdoor living: To promote the provision of practical outdoor private open space, accessible to the living areas of the dwellings, as an important dimension of amenity.

Explanation: *There is a need for private open space on smaller rural lots to enable:*

- (A) *Outlook – a pleasant outlook from inside the living areas of the dwelling.*
- (B) *Ventilation of indoor spaces on to a sheltered outdoor space.*
- (C) *Outdoor living (e.g. sitting in the sun with a cup of coffee).*
- (D) *Outdoor household activities (such as barbecues).*
- (E) *Children to play outdoors.*
- (F) *Provision of biodiversity, aesthetic pleasure and a beneficial microclimate.*

To be capable of being used for these purposes, the open space needs to have a minimum dimension. Several lines of reasoning draw to a conclusion that this minimum dimension should be at least five metres. The private open space needs to be oriented appropriately in relation to the building.

Policy 12 Incidence of daylight and sunlight: To ensure light and sunlight incidence to the subject property and to neighbouring properties for amenity, home heating (energy conservation) and health reasons.

Explanation: *An important dimension to sustainability is enabling maximum practical use of daylight and sunlight for internal illumination and heating of buildings.*

Seasonal variations in sun angles, sunrise and sunset affect the incidence of daylight and sunlight. In most cases, even on sloping sites, setting buildings back from the northern boundary will enable daylight and sunlight incidence and hence solar gain. Renovations of existing dwellings, or replacement dwellings, can be designed to take advantage of this opportunity for solar gain. Furthermore, the amenities of neighbouring properties are affected if buildings are too close to the boundary.

Policy 13 Noise: To maintain ambient noise levels to protect health and amenity of noise sensitive activities, whilst allowing agricultural activities, and to recognise that some parts of the Zone are subject to higher levels of noise generated by farm activities.

Explanation: *Low ambient noise levels, particularly at night, are an important dimension to the amenity of the Rural Zone. However, it is important to recognise that the Rural Zone is a working environment and rural activities such as agriculture, horticulture and forestry need to be provided for to ensure they are not compromised by reverse sensitivity issues involving noise.*

Policy 14 Noise: To recognise that some parts of the Rural Zone are subject to higher levels of noise generated by the transportation network and to avoid, or mitigate reverse sensitivity effects associated with those activities.

Explanation: *“Peace and tranquillity” can be affected by major transportation infrastructure, in particular the railways, State Highways and the Airport. However, it is important that the functioning of this infrastructure is not compromised by reverse sensitivity issues involving noise, and provisions in the District Plan are necessary to achieve this. The location, design and operation of noise sensitive activities should involve the consideration of these existing noise sources.*

Policy 15 Odour: To accept that intermittent emissions of agricultural related odours will occur within the Rural Zone.

Explanation: *It is important to recognise that the Rural Zone is a working environment and rural activities such as agriculture and horticulture need to be provided for to ensure they are not compromised by reverse sensitivity issues involving intermittent emissions of odour.*

Policy 16 Glare: To ensure freedom of nuisance from glare.

Explanation: *Significant amounts of glare from the built environment are not anticipated in rural areas. Glare can become a major nuisance or even a hazard if not considered in the design of building elevations. Nuisance from glare should be avoided where practicable, or otherwise remedied or mitigated.*

Policy 17 Electrical interference: To avoid nuisance from electrical interference.

Explanation: *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 18 Lightspill: To avoid, remedy or mitigate the adverse effects of lightspill.

Explanation: *Lightspill (e.g. security lighting on a neighbouring property) can be a source of annoyance to residents. The character of the night sky, with its starscapes, cloud effects and occasional glimpses of the Aurora Australis, is also an amenity of rural areas and can be masked by light “pollution”. Lightspill can also cause a hazard to transportation networks, including to aircraft, vehicles, trains, cyclists and pedestrians.*

Policy 19 Wind: To avoid, where practical, increasing the adverse impacts of any natural wind effects from land use activities and associated structures.

Explanation: *At times Invercargill is subject to very strong winds for extended periods, particularly from the westerly quarter. Any development which exacerbates wind effects has potential to have a significant adverse effect on the amenities of adjoining properties.*

Policy 20 Signage: To protect the amenity of the Rural Zone by controlling the size and nature of signage and requiring that any signage should relate to the activity being carried out on the site.

***Explanation:** In rural areas signage of sufficient size and clarity to enable people to find rural activities or home occupations occurring on a site is considered appropriate. Advertising signage which does not relate to the activity on the site is not appropriate in rural areas.*

Policy 21 Dilapidated structures and ill-maintained lands: To avoid the adverse effects of dilapidated structures and ill-maintained lands on the amenity of rural areas.

***Explanation:** Derelict properties and poorly maintained properties can significantly detract from the amenities of neighbouring properties.*

Policy 22 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.

***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 23 Relocation activities: To manage the adverse effects of relocation activities on amenity values by ensuring that any relocated building is placed on permanent foundations and reinstated within a reasonable timeframe.

***Explanation:** There are many instances of dwellings which have been relocated on to sections in Invercargill and which offer a high standard of amenity to their occupiers and which contribute to the appearance of the neighbourhood. However, the process of relocation, and in particular adherence to a reasonable timeframe, needs to be carefully managed in order to minimise adverse effects on neighbours.*

Policy 24 Hazardous substances: To provide for the opportunity to store and use moderate amounts of hazardous substances.

***Explanation:** Some substances used in normal domestic living and rural activities are potentially hazardous. There is a need to control the storage of more than domestic quantities of hazardous material.*

Policy 25 Height and location of structures: To manage the scale of development in rural areas is an important dimension of amenity, recognising that the height and location of structures are main components of that.

***Explanation:** The great majority of housing in rural areas is set on larger allotments. In some areas houses are set on smaller historic allotments. The scale, form and location of new buildings should be designed to maintain high levels of amenity by adhering to the overall characteristic of structures of modest height placed with space around them on individual sections. This characteristic is an important dimension of rural amenity.*

Policy 26 Car parking and vehicle manoeuvring: To recognise that the opportunity for residents on smaller rural lots to park their vehicle(s) on-site is an important dimension of amenity.

***Explanation:** Provision for off street car parking and manoeuvring minimises the adverse effects on the safety and efficiency of the road. It also enables the retention of on-street parking for short term visitors and improves the visual amenity of the streets by reducing the level of long term on-street parking.*

Business 5 (Rural Service) Zone

While the site that is the subject of the application is located within the Rural Zone, the Section 42A report also discusses the nearby Business 5 (Rural Service) Zone. The objectives and policies for that zone are therefore included below for information purposes.

2.26 BUSINESS 5 (RURAL SERVICE) ZONE

2.26.2 Objectives

Objective 1: Enterprises which offer services predominantly to the rural sector are enabled to locate conveniently near to the built up area of the City but not necessarily within it.

Objective 2: Identification, maintenance and enhancement of the amenity values of the Business 5 Zone.

2.26.3 Policies

Policy 1 Business 5 (Rural Service) Zone: To establish and implement a Business 5 Zone at or near the intersection of State Highways 6 and 99 and on the west side of State Highway 6, in order to provide an appropriate and convenient location for activities which:

- (A) Supply goods and services primarily to the rural sector and
- (B) Which require easy and convenient access to the rural sector

without perpetrating ribbon development.

***Explanation:** Invercargill's primary function as a rural servicing City means that enterprises which serve the rural sector may have a special need for sites which are convenient to the built-up area of the City but not necessarily within it. Such enterprises are characterised by a client base that is predominantly rural, and requirements for large amounts of storage and display space. These enterprises do not normally attract large numbers of clients at any one time. Appropriate locations for these enterprises offer good connectivity to major routes into the City and easy access for heavy delivery vehicles and farm vehicles with trailers. Appropriate site design and screening are important factors in minimising adverse effects on neighbouring properties and on the transportation network.*

The Business 5 Zone is separate from, and an appropriate distance from, the urban Zones. If enterprises do not wish to locate in the urban area it is necessary that they locate an appropriate distance from it. Otherwise there is the potential for creation of this Zone to initiate ribbon development which is an inconvenient and inefficient urban form, costly to service, and which should be avoided.

Policy 2 Noise: To provide for a moderate level of noise within the Zone consistent with its character whilst ensuring that noise levels at the boundary of the Zone are consistent with those of the adjoining Rural Zone.

***Explanation:** Reasonable noise levels within the Business 5 Zone during normal working hours are both expected and tolerated, however activities in the Zone should not create a nuisance to others outside it. In particular night time noise nuisance should be avoided.*

Policy 3 Odour: To prevent nuisance from generation of odour.

***Explanation:** Some odour is an inevitable effect of a Zone of this nature e.g. the smell of newly cut wood. However, neighbours have a right to freedom from excessive or objectionable odour.*

Policy 4 Glare: To prevent nuisance from glare.

***Explanation:** Glare is most likely to be an issue if it affects the transportation network, when it can cause a hazard.*

Policy 5 Electrical interference: To avoid nuisance from electrical interference.

***Explanation:** 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 prevent nuisance from lightspill.

***Explanation:** Security lighting is likely to be necessary in the Zone, but needs to be designed in such a way that it does not cause a nuisance to neighbouring properties or to the transportation networks, including to aircraft, vehicles, trains, cyclists and pedestrians.*

Policy 7 Wind: To prevent nuisance from wind and wind-borne dust by requiring on-site dust management and mitigation.

***Explanation:** Invercargill can be subject to very strong winds, often from the westerly quarter, for extended periods of the year. There is the potential for dust nuisance to be created downwind from the Zone.*

Policy 8 Signage:

Within the Business 5 Zone to provide for clear and prominent signage giving an enterprise a presence in the area, and clear directional signage, while avoiding signage that:

(A) Is not related to activities on the site on which the sign is situated.

- (B) Has the potential to:
- (i) Create a nuisance to users of the Airport and the Railway; or
 - (ii) Give rise to adverse safety impacts and distraction for users of the State Highways and other roading networks.
- (C) Detracts from the amenities of the area, either because of its size, character or content.

Explanation: *Clear and prominent signage establishing the locality and identity of individual enterprises, and how to get about their sites, is an expected amenity of the Zone. Signage should not be a distraction or a nuisance to users of the transportation network, especially the State Highway. Excessive signage can detract from the effectiveness of directional or locational signage. Signage unrelated to the purpose or activity of the site detracts from the appearance of the immediate area and of the District generally.*

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

Explanation: *Hazardous substances are part of the normal operation of many businesses e.g. use of gas for cooking, use of fuel for heating. Storage of excessive amounts of hazardous substances may pose a risk constituting an adverse environmental effect.*

Policy 11 Infrastructure: To require that provision of water and disposal of sewage is achieved on-site.

Explanation: *The Council has no intention of extending sewerage reticulation to this area.*

Policy 12 Dilapidated structures and ill-maintained lands: To require that buildings and land in the Business 5 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 neighbourhood.*

Policy 13 Demolition or removal activities and relocation of buildings: To manage the adverse effects of demolition or removal activities and relocation of buildings 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. For similar reasons, relocation of buildings needs to be properly managed.*

Policy 14 Height of structures: To control the height of structures in order to minimise the visual effects of development on the landscape.

Explanation: *Low structures can be screened satisfactorily with plantings. High structures are likely to have an adverse effect on this predominantly rural landscape.*

Policy 15 Stormwater runoff: To avoid effects of increased quantity (especially peak flows) and quality of stormwater on neighbouring properties and on the region's waterways.

***Explanation:** Storage and display of merchandise and vehicle parking and manoeuvring areas are likely to create a requirement for large areas of hard standing. Rain is likely to result in runoff from these areas. Stormwater needs to be managed, to collect and dispose appropriately of any contaminants, and to address any change in overland flows due to accelerated runoff.*

Policy 16 Landscaping planting and screening: To require landscaping along the perimeter of the adjacent Rural Zone, to public roads and the State Highway, as set out in the Concept Plan attached as Appendix X.

***Explanation:** Landscaping and screening are important to protect the rural visual amenity of the neighbourhood and to present an attractive entrance to the City along the State Highways. Appropriate landscaping and screening also minimises distraction to users of the State Highway.*

Policy 17 Car parking and vehicle manoeuvring: To advocate the integration of site layout design with the transportation network and in particular the need for safe access from and on to the State Highway system near the edge of the City boundary without perpetrating the traditional ribbon development.

***Explanation:** State Highway 6 from Coopers Corner to Invercargill forms a very long entrance to the City where it has already been necessary to reduce speed maxima to accommodate multiple exits and entry points. The creation of further access ways on this section of the State Highway is undesirable. Furthermore, the creation of movement patterns across a State Highway increases risk and reduces the efficiency of movement along it.*

State Highway 99 carries less traffic and is the appropriate location for entrances into the Business 5 Zone. The roundabout at Coopers Corner means that traffic speeds in the vicinity are slowed, and traffic accessing the Rural Servicing Zone can do so conveniently from all directions using the roundabout as necessary.