IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991 ("the RMA")

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

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Gore District Plan - Decisions on Submissions

Topic 1: Preliminary Matters

and Statutory Requirements Relevant to Decisions

Hearing Commissioners

Keith Hovell

Glenys Dickson

Cliff Bolger

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Gore District Plan - Decisions on Submissions
Topic 1: Preliminary Matters
and Statutory Requirements Relevant to Decisions

1 Introduction

1.1 Purpose and Responsibilities of the Hearings Panel

1.1.1 By way of a Council resolution dated 11 July 2023 Keith Hovell, Cliff Bolger and Glenys Dickson were appointed as hearings commissioners to hear and make decisions on all submissions made to the Proposed Gore District Plan (PDP) noting that the final power rests with the full District Council to approve the plan. In a further resolution dated 7 February 2024, Maria Bartlett was also appointed as a hearings commissioner to the Hearings Panel (the Panel), in accordance with s34A(1A) of the Resource Management Act 1991 (the RMA).

1.1.2 The Panel members were provided with a wide range of delegated powers under the RMA including:

(a) Conducting hearings, and considering all submissions and further submissions received on the PDP, including verbal presentations and written evidence from submitters wishing to be heard;

(b) Making decisions on all submissions and further submissions received on the PDP.

(c) Conducting hearings on and considering any requirements for designations included in the Plan; and

(d) Making recommendations to requiring authorities in relation to new designations or designations in the PDP subject to submissions.

1.1.3 The delegated authority to the Panel under RMA s34A included all of the Council's functions, powers and duties under the RMA necessary for the Panel to carry out our responsibilities set out above, including:

(a) The power to waive or extend any timeframe, including the acceptance of late submissions, in accordance with s37 and s37A.

(b) In accordance with s39 and s39AA, the power to conduct a hearing under Clause 8B, RMA First Schedule, for the purpose of considering all submissions, on the PDP and any requirements notified under Clause 4; and

(c) The power to regulate the hearing, including as provided for by s40 – s42, in relation to:

- evidence filing;
- directions before, at or following hearings, for example to request additional information and/or reports;
- striking out submissions; and
- protection of sensitive information which may be required, for example, in relation to wāhi tapu issues.

1.1.4 The Panel was able to use authorities delegated to it to ensure an efficient and effective hearing process, to obtain additional information to inform deliberations, and to seek the resolution of issues in contention, including processes to allow for potential agreement to be reached among the parties. Each Panel decision, where relevant, outlines the processes used to promote an effective hearing process.

1.2 Purpose of this Preliminary Decision

1.2.1 This is the first of the decisions prepared by the Panel appointed to hear submissions on the PDP. It is generic and overarching, outlining matters in common and relevant to all decisions. It should be read in conjunction with each subsequent decision.

1.2.2 The purpose of this decision and the subsequent Panel decisions relating to each chapter of the PDP is to satisfy the Council's various decision-making obligations in relation to proposed district plans and associated requirements under the RMA. While the decisions of the Panel has been prepared as individual decisions for ease of publication and use, all of decisions should be read as an integrated whole.

1.2.3 This preliminary decision does not include any formal decisions of the Panel in relation to the submissions lodged to the PDP. Rather it:

- records several background and procedural matters of relevance to our decisions;
- establishes the statutory context for our decision-making; and
- provides a guide to the format and approach adopted for each of the subsequent decisions.

1.2.4 The material in this decision is largely factual and provides context that each of the subsequent decisions draw upon. The aim of the Panel in centralising these contextual matters within this introductory decision is to avoid duplication of common material in the subsequent decisions. To that same end, readers of the subsequent Panel decisions on each topic should have regard to this document.

1.2.5 The Panel is very grateful for the opening legal submissions provided by the Council's legal counsel for the hearings, Shelley Chadwick and Michael Garbett of Anderson Lloyd, on Day 1 of the hearings, together with the initial s42A Report from Matt Heale, Principal Planner at The Property Group. Much of this document draws on their advice, and is supplemented by advice received from legal counsel and planners representing parties to the hearings.

2 Notification and Hearing Process

2.1 Notification and Submissions

2.1.1 The PDP was publicly notified under Clause 5 of the First Schedule of the RMA on 31 August 2023. The submission period initially ran from 31 August to 26 October 2023, although it was extended to 27 November 2023 by Council resolution. By 27 November 2023, Council received 130 submissions containing 5544 submission points.

2.1.2 Four submissions were received after the extended closing date for lodging submissions, as listed in Table 1 below.

Table 1 Submissions Received After 27 November 2023

Submission	Submitter name	Date submission received
S13	Kelly-Anne Findlay	29/12/2023
S140	Robina Johnston	01/12/2023
S146	Southland District Council	30/11/2023
S152	Nigel Cowburn	30/11/2023

2.1.3 The submissions listed in Table 1 were accepted by Keith Hovell, Chair of the Panel under delegated authority[1], however submission S13 was later deemed to be out of scope, as detailed in the following sections.

2.2 Incomplete Original Submissions

2.2.1 There were 6 submissions received that were incomplete, missing information that was required by RMA Form 5, including:

(a) Whether they could gain an advantage in trade competition through their submission;

(b) Whether they wish to be heard in support of their submission; and

(c) Whether they would consider presenting a joint case.

2.2.2 The relevant submitters were contacted and the missing details included on the submission forms. These amended submissions were accepted by Keith Hovell, Chair of the Panel, under delegated authority on 8 February 2024[2].

2.3 Voided submissions

2.3.1 A number of submissions were voided because they were either duplicates or online submissions that had not been finalised and lodged and therefore had no content. However, two submissions were struck out as they were out of scope, and others had submission points that were deemed to be out of scope[3] by Keith Hovell, Chair of the Panel, under delegated authority on 12 February 2024.

2.3.2 The Council advised the relevant submitters where a submission or submission point was voided. The voided submissions and the reasons are detailed in the Table 2 below.

Table 2 Voided Submissions

Submission	Submitter name	Reason
S0	Michelle Davers	No content – voided in whole
S2	David Harrington	Out of scope – decision to strike out in entirety
S13	Kelly-Anne Findlay	Out of scope – decision to strike out in entirety
S22	Mark and Karen Walker	No content – voided in whole
S34	Gore District Council – 3 Waters Division	No content – voided in whole
S38	Russell Welsh	Duplicate S90 and no content – voided in whole
S43	Christopher King	No content – voided in whole
S44	Rachel Thomas	No content – voided in whole
S45	Fuchsia McIntyre	No content – voided in whole
S46	Margaret Katon	Out of scope submission point – void in part
S47	David Katon	Out of scope submission point – void in part
S57	Clayton Rowland	Duplicate S36 – voided in whole
S58	D R & J A Pullar	Duplicate S133 – voided in whole
S67	Gore District Memorial RSA	Duplicate S49 – voided in whole
S70	John Baynes	Duplicate S68 – voided in whole
S71	John Baynes	Duplicate S68 – voided in whole
S72	John Baynes	Duplicate S68 – voided in whole
S73	Robina Johnston	Duplicate S140 – voided in whole

[1] Minute from District Plan Hearings Panel – Submissions Received after the Closing Date – 25 January 2024
[2] Minute from District Plan Hearings Panel – Minor Omissions in Submissions – 8 February 2024
[3] Minute from District Plan Hearings Panel – Out of Scope Submissions – 12 February 2024

Table 2 Voided Submissions		
Submission	**Submitter name**	**Reason**
S78	Charlton Rise	Duplicate S100 – voided in whole
S80	Forest and Bird	Duplicate S110 – voided in whole
S81	Bridget Sim	No content – voided in whole
S82	Adam Newton	No content – voided in whole
S83	Fulton Hogan	Duplicate S122 – voided in whole
S86	Karen Menlove	Duplicate S89 – voided in whole
S88	KiwiRail	Duplicate S132 – voided in whole
S90	Russell Welsh	Duplicate S38 and no content – voided in whole
S91	Waikaka Gold Mines	Duplicate S129 – voided in whole
S93	Port Blakely Ltd	Duplicate S138 – voided in whole
S136	Jenny Cambell	Out of scope submission points – void in part
S140	Robina Johnston	Out of scope submission point – void in part
S150	Hugh Gardyne	Duplicate S137 – voided in whole
S151	Stoney Creek	Duplicate S3 – voided in whole

2.4 Further Submissions

2.4.1 Further submissions were received from 14 February 2024 until 28 February 2024.

2.4.2 60 submission points relating to mapping changes were omitted from the original summary of submissions. The omitted submission points were renotified on 27 March 2024. These further submissions closed on 12 April 2024.

2.4.3 Overall, 26 further submissions were received covering 1464 submission points.

2.4.4 Seven further submissions were voided as set out in Table 3.

Table 3 Voided Further Submissions		
Submission	**Submitter name**	**Reason**
FS1	Not applicable	Test submission – voided in whole
FS2	Not applicable	Test submission – voided in whole
FS3	Not applicable	Test submission – voided in whole
FS8	Mercury NZ Ltd	Duplicate FS26 and no content – voided in whole
FS15	Mercury NZ Ltd	Duplicate FS26 and no content – voided in whole
FS32	Not applicable	Test submission – voided in whole
FS33	Hamish Weir	Duplicate FS5 and no content – voided in whole

2.4.5 Further submissions were also sought from 8 to 22 May 2024 on three additional submission points in support of the whole plan from:

- Hokonui Rūnanga (s139.093)
- McNab Management Ltd (s103.031)
- Transpower New Zealand Ltd (s101.103).

2.4.6 These submission points were not included in the original submission summary due to an incorrect interpretation that they were not valid. However, following legal advice they were notified. No further submissions were lodged on these submission points.

2.5 Minutes and Directions

2.5.1 As part of the management of the hearing process, the Panel issued 44 Minutes on a wide range of procedural issues as they arose, as set out in Table 4, noting that there is no Minute 26 due to a draft Minute not being issued:

Table 4 Minutes of the Hearings Panel		
Minute	**Date**	**Subject Matter**
1.	18 January 2024	Extension of Period for Lodging Further Submissions
2.	8 February 2024	Minor Omissions in Submissions
3.	15 February 2024	Status to Lodge Further Submissions
4.	24 May 2024	Legal advice
5.	16 April 2024	Hearing Procedures
6.	24 May 2024	Response to memorandum from Greenbriar Limited
7.	11 June 2024	Hearing Stream 1 Additional Information
8.	13 June 2024	Deferring Consideration of Hokonui Runanga Submissions to Hearing Stream 2
9.	13 June 2024	Hearing Stream 1 Council Right of Reply
10.	17 June 2024	Hearing Stream 2 Additional Information
11.	27 June 2024	Additional Information Sought From KiwiRail and FENZ
12.	1 July 2024	Hearing Stream 2 Council Right of Reply
13.	3 July 2024 updated on 31 October 2024	Direction on Hearing of Submissions by McNabb Management Ltd
14.	30 Jul 2024	Additional Information on Recommended Rezoning Whiterig Road, East Gore
15.	6 August 2024	Direction on Mana Whenua and Sites of Significance to Maori Chapters
16.	16 August 2024	Forestry
17.	22 August 2024	Direction of East Gore Water Treatment Facility Designation
18.	10 September 2024	Direction on Natural Character Chapter
19.	9 September 2024	Additional Information Sought on Residential Zones Report
20.	11 September 2024	Additional Information Sought on Industrial Zones Report
21.	27 September 2024	NZTA Waka Kotahi - Designations
22.	3 October 2024	Additional Information Sought on Signs Chapter
23.	3 October 2024	Additional information sought on Transport Chapter
24.	31 October 2024, updated on 22 November 2024	Additional information sought on Noise Chapter
25.	6 November 2024	Timing of Hearing Stream 8
27.	15 November 2024	Additional advice sought on Earthworks, Energy & Infrastructure
28.	25 November 2024	Procedures for Hearing Stream 8
29.	10 December 2024	Submissions from McNab Management Limited
30.	10 December 2024 and appendix on 13 December 2024	Submissions on draft Natural Character Chapter
31.	16 December 2024	2025 Hearings timetable
32.	12 December 2024, amended on 20 December 2024	Additional information sought on Aircraft and Helicopter Movements
33.	19 December 2024	Response to Federated Farmers timetable request
34.	23 January 2025	Additional information sought on Transport Chapter
35.	29 January 2025	Response to Transpower NZ Ltd timetable request
36.	29 January 2025	Submissions on response to Minute 27
37.	4 February 2025	Response to Federated Farmers timetable request

Table 4 Minutes of the Hearings Panel		
Minute	**Date**	**Subject Matter**
38.	11 February 2025	Response to Hokonui Rūnanga timetable request
39.	17 February 2025	Submissions on locally distinctive and valued natural features and landscapes
40.	19 February 2025	Response to memorandum from the Director General of Conservation
41.	3 March 2025	Additional information sought on Ecosystems & Biodiversity Chapter
42.	6 March 2025	Procedures for the Wrap-Up Hearing
43.	14 March 2025	Additional information sought on Natural Hazards Chapter
44.	27 June 2025	Panel request for a copy Greenbriar Ltd resource consent
45.	30 June 2025	Closure of hearings

2.5.2 Minute 5 Hearing Procedures, outlined the following matters:

- membership and role of the Hearings Panel;
- hearing times and dates;
- principles of the hearings process;
- role of staff and consultants;
- submitter involvement at the hearings;
- hearing format;
- site visits; and
- what happens after the hearings.

2.5.3 The following was also attached to Minute 5:

- the indicative Timetable for the various hearings to be held; and
- a summary of timeframe requirements in relation to each hearing including the lodging of evidence and legal submissions.

2.6 Hearing of Submissions

2.6.1 The hearing of submissions was organised into nine Hearing Streams (HS1 – HS12), as follows:

Table 5 Hearing Streams		
Hearing Stream	**Panel Members**	**Subject Matter**
HS1	CB KH GD MB CB KH GD MB	Introduction and General provisions UFD – Urban Form and Development
HS2	CB KH GD CB KH GD CB KH GD CB KH GD CB KH GD CB KH GD CB KH GD CB KH GD CB KH GD	NCZ – Neighbourhood Centres Zone LCZ – Local Centre Zone MUZ – Mixed Use Zone TCZ – Town Centre Zone AIRPZ – Airport Zone NOSZ – Natural Open Space Zone SARZ – Sports and Active Recreation Zone CCZ – Camp Columba Zone FDZ – Field Days Zone
HS3	CB KH GD MB	MW – Mana Whenua

Table 5 Hearing Streams		
Hearing Stream	**Panel Members**	**Subject Matter**
	CB KH GD	RUZ – General Rural Zone
	CB KH GD	RLZ – Rural Lifestyle Zone
	CB KH GD	SETZ – Settlement Zone
HS4	CB KH GD MB	MPZ – Māori Purpose Zone
	CB KH GD MB	GIZ – General Industrial Zone
	CB KH GD MB	LIZ – Light Industrial Zone
	KH GD	LLRZ – Large Lot Residential Zone
	KH GD	GRZ – General Residential Zone
	KH GD	MRZ – Medium Density Residential Zone
HS5	CB GD	LIGHT – Light
	CB GD	SIGN – Signs
	CB KH GD	TEMP – Temporary Activities
	CB KH GD	TRANS – Transport
	CB KH GD	Designations
HS6	CB KH GD	CL – Contaminated Land
	CB KH GD	HAZS – Hazardous Substances
	CB KH GD	NOISE – Noise
	CB KH GD	PA – Public Access
	CB KH GD	SUB – Subdivision general
HS7	CB GD MB	EW – Earthworks
	CB GD MB	ENRG – Energy
	CB GD MB	INFR – Infrastructure
	CB GD MB	ASW – Activities on the Surface of Water
HS8	CB KH GD MB	HH – Historical Heritage
	CB KH GD MB	TREE – Notable Trees
	CB KH GD MB	SASM – Sites and Areas of Significance to Māori
HS9	CB KH GD MB	NFL – Natural Features and Landscapes
HS9A	CB KH GD MB	SASM – Sites and Areas of Significance to Māori (resumed)
HS10	CB KH GD MB	ECO – Ecosystems and Indigenous Biodiversity
HS11	CB KH GD MB	NH – Natural Hazards
HS-12	CB KH GD MB	Wrap up
Panel Members: KH Keith Hovell MB Maria Bartlett		CB Cliff Bolger GD Glenys Dickson

2.6.2 The original intent was to hold HS9, HS10 and HS11 at the same time. However, given the complexity of issues being considered and the higher than usual interest in these matters by submitters, they were separated. This enabled the Panel to focus deliberations on the individual topics.

2.6.3 Cliff Bolger was intended to be a member of the Panel in considering submissions to the Residential Zones. However, he was unwell during the hearing and took no part in making decisions with regard to those zones.

2.7 Conflict Management

2.7.1 Minute 5 outlined the Panel approach to the management of potential conflicts of interest. The Panel recognised that ensuring a fair and transparent hearing process means all Commissioners bring an independent and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination. The allocation of Commissioners to different hearings has been designed to minimise known conflicts of interest.

2.7.2 A "Register of Interests" was prepared by each Commissioner recording any previous links to submitters, involvement in issues being considered or other interests held by Panel members.

2.7.3 Any party to the hearing process was entitled to raise potential conflicts of interest. In that regard, in the submission from Yrless, a submitter to the PDP, Rebecca Tayler queried Commissioner Hovell being on the Panel given that he was previously engaged by the Council to assist with the District Plan process. Ostensibly that was in a managerial and technical capacity during the early stages of preparing the PDP and that by itself did not give rise to a conflict. However, having regard to matters set out in the Register of Interest and the submissions lodged, Commissioner Hovell did not participate in making decisions on the Earthworks, Energy, Activities on the Surface of Water and Infrastructure Chapters of the PDP.

2.7.4 Commissioner Bolger, between 1998 and 2022, served as a Gore District Councillor. Commissioner Dickson is a sitting Councillor, having served from 2016 until October 2025 present. Both Commissioners were members of the Committee providing direction on the review of the Gore District Plan. That did not rule them out of considering and deciding the submissions lodged to the Proposed District Plan. The two roles are recognised as different.

2.7.5 Commissioner Bartlett previously worked for Aukaha Limited (2019) and Te Ao Mārama Incorporated (2020 – 2023), consultancies that provide services to Hokonui Rūnanga and other Papatipu Rūnanga. However, at no time did Commissioner Bartlett provide advice to Hokonui Rūnanga regarding the PDP.

2.8 The Role of the Panel

2.8.1 The Panel has been delegated the task, under clause 8B, Schedule 1 of the RMA, to hold hearings to consider the submissions on the PDP, as well as requirements for designations that have been included in the PDP.

2.8.2 Under clause 10, the Panel is required to make decisions on behalf of the Council on matters raised in submissions, including reasons for its decisions. The Panel is able to group submissions, in a similar way to how the reporting officers have approached their assessments in the s42A reports. The Panel is not required to give a decision that addresses each individual submission.

2.8.3 As is discussed further below, the Panel's decisions must include a further evaluation of the PDP under section 32AA RMA. The Panel must give its decisions on submissions on the PDP no later than two years after notification of the PDP, which is 31 August 2025. When it became apparent that the work of the Panel in finalising decisions on submissions would not be not completed by that time, the Council formally requested the Minister for the Environment on 15 July 2025 to extend the deadline for the notification of decisions as provided for under clause 10A(4)(a) of the First Schedule of the RMA. In an undated letter received on 2 September 2025, the Minister granted an extension of time to issue decisions until 31 January 2026.

2.8.4 The PDP also includes requirements of requiring authorities other than the Council for designations which have different statutory tests and procedures, with the Panel issuing recommendations to requiring authorities. Relevant matters are set out Decision 11 Gore District Council Designations and Recommendations to Designations of Requiring Authorities (other than Gore DC) (Topic 31).

2.9 Partial Withdrawal of ECO-R1

2.9.1 Rule ECO-R1 in the Ecosystems and Biodiversity Chapter as notified read as follows"

Indigenous vegetation clearance and land disturbance

Activity status: Permitted Where:

1. It is necessary for the following purposes:

   (a) the maintenance, repair or replacement of existing lawfully established:
   (i) fences,
   (ii) vehicle tracks,
   (iii) roads,
   (iv) Critical infrastructure,
   (v) walkways,
   (vi) firebreaks,
   (vii) dams,
   (viii) waterway crossings, or
   (ix) network utilities
   and the clearance or land disturbance is no more than 1.0m in width from those works in (ii), (iii), (iv), (v), (vii), (viii) and (ix), and 1.5m for (i) and (vi).

2.9.2 At its meeting on 21 November 2023, the Council resolved to withdraw the maximum limit associated with fencing as follows:

THAT in recognition of the invasive nature on farming operations posed by the maximum width provisions for clearing of vegetation associated with the replacement and construction of fencing contained in the Ecosystems and Indigenous Biodiversity chapter of the Proposed District Plan, the Council withdraw this rule insofar as specifying a maximum distance is concerned.

AND THAT the Council seeks to engage in fresh consultation with relevant stakeholders to develop a revised rule which is less restrictive for farming practices.

2.9.3 Commissioners Keith Hovell and Glenys Dickson declared a conflict of interest when this issue was considered at the Councill meeting and withdrew from the table, taking no part in the ensuing discussion and voting.

2.9.4 As a result of the resolution, a public notice was notified, the PDP was amended, and consultation began with relevant stakeholders.

2.9.5 The matter is discussed further in Decision 45 Ecosystems and Biodiversity.

3. Statutory Requirements

3.1 Introduction

3.1.1 The consideration of submissions and further submissions does not occur in a vacuum. There are a number of legislative instructions that the Panel is required to factor into its decisions.

3.1.2 At the commencement of the first hearing, opening legal submissions provided by the Council's legal counsel, Shelley Chadwick and Michael Garbett, together with the initial s42A Report from Matt Heale outlined these legislative matters. Throughout the hearing process various statutory matters have arisen relevant to particular chapters which are signalled in this report and discussed in subsequent decisions as the matters arise.

3.2 Evolving Regulatory Environment

3.2.1 Shelley Chadwick and Michael Garbett highlighted uncertainty around the resource management regulatory environment, with the then newly elected Government signalling upcoming changes to the RMA, including its potential replacement, and changes to national direction. Shelley Chadwick and Michael Garbett advised that, as a matter of law, the Council through the Panel is required to follow the current version of all legislation and national direction, including national policy statements (NPSs), and that the Panel cannot anticipate changes that may or may not come about.

3.2.2 Legal counsel for the council also noted that the plan development process is flexible enough to enable the Panel to consider appropriate responses if there are changes to NPSs or the RMA that might come into effect prior to issuing decisions.

3.2.3 The Panel has relied on the statutory framework as enacted and operative at the time of decision. Any relevant developments since notification of the PDP that affect the decision are listed below:

- Release of the Second Emissions Reduction Plan (ERP2) December 2024, under the Climate Change Response Act 2002 covering the years 2026 to 2030.

3.2.4 The ERP2 is relevant to the Panel's consideration of coal mining and afforestation in the rural zones, and provisions that facilitate transport networks and electricity generation, as well as references in the PDP to climate change response. The Panel notes that ERP2 includes an emphasis on increasing renewable electricity generation, which is relevant to wind farms in the district and further development of the National Grid. ERP2 includes a focus on increasing afforestation on Crown-owned land, as well as expanding the charging network for electric vehicles.

- On 23 September 2025, the Climate Change Response (Emissions Trading Scheme – Forestry Conversions) Amendment Bill became an Act.

3.2.5 New forestry rules, effective from 31 October 2025, limit the conversion of highly productive farmland (Land Use Capability or LUC class 1–5) into exotic forests registered in the Emissions Trading Scheme (ETS). The new regulations also cap conversions on LUC class 6 farmland to 15,000 hectares per year, with a limit of 25% of a farm's LUC 1–6 land allowed for registration in the ETS to provide flexibility.

- The Resource Management (Freshwater and Other Matters) Amendment Act 2024 came into force in October 2024 amending provisions within the National Policy Statement for Indigenous Biodiversity (NPSIB).

3.2.6 The NPSIB was amended, suspending the requirement for Councils to identify new Significant Natural Areas for three years, from October 2024 while also clarifying that existing obligations in RMA s6(c) to protect biodiversity still applied.

3.2.7 The Panel has applied the law as it stands at the date of finalising its decisions, particularly in relation to the National Policy Statement for Highly Productive Land (NPSHPL) discussed later in this decision.

3.3 Statutory Assessment to be Undertaken by the Panel

3.3.1 Legal counsel for the council advised the Panel of the statutory tests required to be met as set out in the Environment Court decision *Colonial Vineyard Ltd v Marlborough District Council.*[4] Advice stated that these tests have been applied and summarised in a number

[4] *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [17].

of subsequent decisions so are well settled and the written submissions received included an excerpt from that case with a list of potentially relevant matters. However, it was noted that the list in the *Colonial Vineyard* case does require some updating to take account of amendments to the RMA since 2014.

3.3.2 For this review, the PDP must:

(a) Be prepared in accordance with the Council's functions,[5] and assist the Council to carry out its functions;

(b) Be prepared in accordance with Part 2;[6]

(c) Give effect to:[7]

(i) Any relevant national policy statement and/or operative regional policy statement; and

(ii) The National Planning Standards;

(d) Not be inconsistent with a water conservation order or a regional plan,[8] or conflict with a provision in a national environmental standard;[9]

(e) State objectives,[10] which have been evaluated by examining the extent to which they are the most appropriate way to achieve the purpose of the RMA;[11] and

(f) State policies that implement objectives[12] and rules (if any) that implement policies,[13]each of which have been evaluated by examining whether they are the most appropriate way to achieve the objectives of the plan[14]by:

(i) Identifying other reasonably practicable options; and

(ii) Assessing the efficiency and effectiveness in achieving the objectives.

3.3.3 In evaluating policies and methods (including rules), the Panel must take into account the following:[15]

(a) The benefits and costs of the proposed policies and methods; and

(b) The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies or methods.

3.3.4 In making decisions on submissions the Panel must also:

(a) Have regard to:

(i) Any relevant proposed regional policy statement, or proposed regional plan[16] (in relation to a matter of regional significance, or where the regional council has primary responsibility);

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[5] Section 74(1)(a).
[6] Section 74(1)(b).
[7] Section 75(3).
[8] Section 75(4).
[9] Section 44A.
[10] Section 75(1)(a).
[11] Section 32(1)(a).
[12] Section 75(1)(b)
[13] Section 75(1)(c).
[14] Section 32(1)(b).
[15] Section 32(1)(b).
[16] Section 74(2)(a).

(ii) Any management plans and strategies prepared under other legislation and relevant entries on the New Zealand Heritage List - Rārangi Kōrero to the extent that these matters have a bearing on the resource management issues of the district;[17]

(iii) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities;[18]

(iv) The Emissions Reduction Plan[19] and the National Adaptation Plan;[20]

(v) In relation to rules, the actual and potential effects on the environment, including, in particular, any adverse effect;[21]

(b) Take into account any relevant planning document recognised by an iwi authority and lodged with Council.[22] and

(c) Disregard any effects of trade competition.[23]

3.3.5 The decisions of the Panel must refer to the provisions and matters raised in all submissions on the PDP, and the reasons for accepting or rejecting submission points, which may be responded to collectively where matters are raised in common.

3.3.6 The decision must also include a further evaluation of the PDP in terms of section 32AA.[24] To assist, each of the s42A reports contained a s32AA assessment of any changes being recommended to the PDP in those reports.

3.3.7 The approach of the Panel to s32AA is discussed further in section 4.3 below.

3.4 Scope of amendments to PDP

3.4.1 In addition to foundational advice from Shelley Chadwick and Michael Garbett of Anderson Lloyd on behalf of Gore District Council, matters of scope arose in the context of particular submissions, chapters and provisions. The Panel therefore received the benefit of various opinions of legal counsel as regards to the scope of submissions and the extent of changes that may be made to the PDP as notified.

3.4.2 Legal submissions covering scope to varying degrees were received in relation to submissions addressing:

- the relationship of Māori with the district, from:
  - Josh Leckie of Lane Neave for Hokonui Rūnanga; and
  - Jo-Anne Cook-Munro for Federated Farmers of New Zealand Incorporated – Southland Province;
- coal mining within the Rural zone, from:
  - Bridget Irving of Galloway Cook Allan for Greenbriar Limited;
- jet boating on the Mataura River, from:

[17] Section 74(2)(b).
[18] Section 74(2)(c).
[19] Section 74(2)(d).
[20] Section 74(2)(e).
[21] Section 76(3).
[22] Section 74(2A).
[23] Section 74(3).
[24] Schedule 1, clause 10.

- Chris Thomsen of Fletcher Vautier Moore for Jet Boating New Zealand;

- zoning at McNab, from:
  - Josh Leckie of Lane Neave for McNab Management Limited;
- natural features and landscapes, from:
  - Jo-Anne Cook-Munro for Federated Farmers of New Zealand Incorporated – Southland Province; and
- natural hazard mapping, from:
  - Kate Dickison and Philip Maw of Wynn Williams for Environment Southland.

3.4.3 The Panel considers these legal submissions covering scope issues within the context of chapter specific decisions, which will draw from the overall approach indicated in this decision.

3.4.4 At the outset of the hearing Shelley Chadwick and Michael Garbett advised that the Panel has broad scope to make amendments to the PDP. The Environment Court in *Motiti Rohe Moana Trust v Bay of Plenty Regional Council*[25] (the Motiti case) said:[26]

> It is well established that on appeals about proposed planning instruments there is no presumption in favour of the planning authority's policies or the planning details of the instrument challenged or the authority's decisions on submissions: each aspect stands or falls on its own merits when tested by submissions and the challenge of alternatives or modification.

3.4.5 Shelley Chadwick and Michael Garbett also advised that the above comments must be applied against the requirement that all amendments can only be made if they are within the scope of a submission. The key principles for the Panel in considering whether an amendment is within the scope of submissions are those summarised by the High Court in *Albany North Landowners v Auckland Council*[27] as follows:

(a) A Council must consider whether any amendment made to a proposed plan or plan change as notified goes beyond what is reasonably and fairly raised in submissions on the proposed plan or plan change.[28]

(b) To this end, the Council must be satisfied that the proposed changes are appropriate in response to the public's contribution.[29]

(c) The assessment of whether any amendment was reasonably and fairly raised in the course of submissions should be approached in a realistic and workable fashion rather than from the perspective of legal nicety.[30]

(d) The 'workable' approach requires the local authority to take into account the whole relief package detailed in each submission when considering whether the relief sought had been reasonably and fairly raised in the submissions.[31]

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[25] *Motiti Rohe Moana Trust v Bay of Plenty Regional Council* (2016) 19 ELRNZ 595.
[26] *Motiti*, at [45]
[27] *Albany North Landowners v Auckland Council* [2017] NZHC 138.
[28] *Albany North*, at [115], referring to *Countdown Properties (Northlands) Ltd v Dunedin City Council* [1994] NZRMA 145.
[29] *Albany North*, at [115].
[30] Albany North, at [115], referring to *Royal Forest and Bird Protection Society of New Zealand v Buller Coal Ltd* [2012] NZRMA 552.
[31] *Albany North*, at [115], referring to *Shaw v Selwyn District Council* [2001] 2 NZLR 277.

(e) It is sufficient if the change to be made can fairly be said to be a foreseeable consequence of any changes directly proposed in the submission.[32]

3.4.6 The *Albany North Landowners v Auckland Council* case is also lined up with the legal submissions of Kate Dickison and Philip Maw as it pertains to the scope of council to "deal with the realities of the situation"[33]. Jo-Anne Cook-Munro challenged the relevance of the *Albany North* case to the PDP hearing process on the basis that the case was adjudicated in the High Court as part of a non-standard planning process[34], and pointed towards alternative cases. Shelley Chadwick responded to the submissions of Jo-Anne Cook-Munro by advising that the non-standard planning process subject of the *Albany North* case applied previous case law on scope of submissions, rather than any special or unique treatment of scope issues, as part of a comprehensive review by the High Court of relevant case law, such that the summary of the Court draws in detail from case law applicable to standard planning processes. Shelley Chadwick also advised that the High Court determination should be favoured over alternative cases from the lower Environment Court[35].

3.4.7 The Panel relies on the advice of Shelley Chadwick, Kate Dickison and Philip Maw and applies the principles outlined in the *Albany North* case to issues pertaining to scope that arise in the context of particular submissions, chapters and provisions. The Panel had access to the decision of the High Court and members have read it in order to develop familiarity with the approach taken to applying principles identified as part of the *Albany North* case.

3.4.8 Josh Leckie, Kate Dickison and Philip Maw pointed towards case law that identified scope to be somewhere between the plan as notified and an original submission[36]. The Panel applies this understanding in decisions on particular chapters and provisions. Josh Leckie, Kate Dickison and Philip Maw provided advice that case law has confirmed that scope is not limited by the words of the submission but allows for changes "*incidental to, consequential upon or directly connected to the submission*" [37]. The Panel also accepts and applies this advice.

3.4.9 Shelley Chadwick and Michael Garbett submitted at the outset that the Panel has broad scope to make amendments to the PDP provided it is confident that they are a logical consequence of the matters raised in the full range of submissions, such that they would not prejudice a potential further submitter who had elected not to make a further submission. In some decisions the Panel has concluded there is scope to make substantial changes to chapters and provisions on the basis of submissions, and in other instances the Panel has identified prejudice to potential further submitters, which has moderated the extent of changes made to the notified PDP as part of decisions. Individual decisions outline the result of application of the principles outlined in the *Albany North* case.

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[32] *Albany North*, at [115], referring to *Westfield (New Zealand) Ltd v Hamilton City Council* [2004[NZRMA 556.
[33] Legal Submission on Behalf of Environment Southland (Natural Hazards), 3 March 2025
[34] Legal Submissions on Behalf of Federated Farmers of New Zealand Incorporated – Southland Province,
[35] Legal Submissions on Behalf of Gore District Council for Hearing Stream 9A, 14 February 2025
[36] *Re Vivid Holdings Ltd (1999) 5 ELRNZ 264* at [19], as referenced in Philip Maw's submissions of 3 March 2025 and Josh Leckie's submissions of 3 December 2024
[37] *Option 5 Inc v Marlborough District Council 16 ELRNZ 1* and *Westfield (NZ) Limited v Hamilton City Council [2004] NZRMA 556* at [73], as referenced in Josh Leckie's submissions of 28 November 2024 and 3 December 2024 respectively; and *Well Smart Holding (NZQN) Limited v Queenstown Lakes District Council [2015] NZEnvC 214* at [16]; *Palmerston North City Council v Motor Machinists Ltd [2013] NZHC 1290* at [91] as referenced in the submissions of Kate Dickison and Pihlip Maw of 3 March 2025.

3.4.10 Philip Maw references case law relevant to consequential changes, emphasising that these should "flow downwards" where changes are made to objectives or policies that are to be given effect to by lower order provisions such as rules and methods, which is to some extent supported by the legal submissions of Jo-Anne Cook-Munro where she also references *Palmerston North City Council v Motor Machinists Ltd*[38]. These cases are themselves drawn upon in the *Albany North* case, as indicated in the submissions of Shelley Chadwick. The Panel applies a "flow downwards" approach to consideration of consequential amendments arising from changes based on submissions and considers vertical integration issues as part of the decision on each chapter or topic.

3.4.11 Additionally, Shelley Chadwick advised that Clause 16 of the First Schedule provides for the Panel to make minor changes to the PDP that are not within the scope of submissions lodged. This provisions states:

> 16 Amendment of proposed policy statement or plan
> (1) A local authority must, without using the process in this schedule, make an amendment to its proposed policy statement or plan that is required by section 55(2) or by a direction of the Environment Court under section 293.
> (2) A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.

3.4.12 Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

3.4.13 Changes made in response to submissions are shown in normal black font, with text either underlined for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions.

3.5 Council functions

3.5.1 In making decisions on submissions to the PDP, the decisions of the Panel support the functions of the Gore District Council as specified in RMA s31 and are based on the purpose of the district plan in assisting the council to carry out those functions, in accordance with s72 of the Act.

3.5.2 The Panel has received legal submissions and planning advice during the hearings regarding distinction between the functions of the Gore District Council and Southland Regional Council under the Local Government Act 2002 (LGA) and other Acts and functions under the RMA. In particular the Panel has explored the role of the district plan in relationship with bylaws made by Gore District Council and Southland Regional Council.

3.5.3 Legal submissions covering relationship with council bylaws was received in relation to submissions addressing:

- jet boating on the Mataura River and Environment Southland's Navigational Safety Bylaw, from:
  - Chris Thomsen of Fletcher Vautier Moore for Jet Boating New Zealand.

3.5.4 Planning advice covering relationship with council bylaws was received in relation to submissions addressing:

[38] Kate Dickison and Philip Maw's submissions of 3 March 2025 and Jo-Anne Cook-Munro's submissions of 5 February 2025

- subdivision and urban development and Gore District Council's Subdivision and Land Development Bylaw, from:
  - Matt Heale, Joanne Skuse, Tina Carson-McColl, Victoria Woodbridge and Mishka Banhidi of The Property Group for Gore District Council.

3.5.5 In addition, the Panel has considered the relationship between the functions of the Gore District Council under s31 and functions of Southland Regional Council(Environment Southland) under s30 of the RMA. It has been necessary for the Panel to consider the functions of both councils in relation to:

- integrated management of natural and physical resources;
- land use controls affecting matters of national importance, including protection of ecosystems and indigenous biodiversity;
- land use controls affecting matters of regional significance, including regionally significant infrastructure;
- development capacity in relation to housing and business land;
- management of contaminated land;
- earthworks controls;
- the avoidance or mitigation of natural hazards, particularly flood hazards; and
- activities relevant to freshwater management.

3.5.6 Gore District Council functions and the purpose of the district plan within the jurisdiction of the RMA are referenced by the Panel where they are relevant and arise in decisions on each chapter. The Panel relies on giving effect to the Regional Policy Statement (RPS) as the primary means of resolving the different functions of Gore District Council and Southland Regional Council, and refers to regional plans and their purpose under RMA s63 where necessary.

3.6 RMA Part 2

3.6.1 In making decisions on submissions to the PDP, and in considering requirements included in the PDP, the Panel has had regard to the provisions of Part 2 of the RMA as set out below. The Panel has included an outline of legal submissions and planning evidence received on Part 2 matters, which are further discussed in decisions on each chapter or particular submissions as necessary.

3.6.2 Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

> **Section 5 Purpose**
> *Sustainable management means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while –*
> *(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably 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.*

3.6.3 Legal submissions on the application of s5 in the context of PDP submissions was received from:

- Bridget Irving of Galloway Cook Allan for Greenbriar Limited in Hearing Stream 1

3.6.4 Planning advice on application of s5 in the context of PDP submissions was received from:

- Matt Heale of The Property Group for Gore District Council in Hearing Stream 1;

3.6.5 The Panel relies on higher order planning instruments as the primary means of giving effect to Part 2 of the RMA. Where any recourse to Part 2 occurs in relation to a particular decision, discussion will be located in the relevant decision with reference to case law, particularly *King Salmon*[39].

3.6.6 In achieving this purpose, the Panel also recognises and provides for the matters of national importance identified in s6, had particular regard to other matters referred to in s7 and taken into account the principles of the Treaty of Waitangi referred to in s8. These sections of the Act state:

Section 6 Matters of National Importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
f) the protection of historic heritage from inappropriate subdivision, use, and development:
g) the protection of protected customary rights:
h) the management of significant risks from natural hazards.

Section 7 Other Matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:
(aa) the ethic of stewardship:
(b) the efficient use and development of natural and physical resources:
(ba) the efficiency of the end use of energy:
(c) the maintenance and enhancement of amenity values:
(d) intrinsic values of ecosystems:
(e) [Repealed]
(f) maintenance and enhancement of the quality of the environment:
(g) any finite characteristics of natural and physical resources:
(h) the protection of the habitat of trout and salmon:
(i) the effects of climate change:
(j) the benefits to be derived from the use and development of renewable energy.

Section 8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical

[39] *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 38, [2014] 1 NZLR 593.*

resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

3.6.7 The Panel received legal submissions and planning advice on the application of the principles contained in s6, s7 and s8. While the Panel primarily relies on higher order instruments for direction on how to give effect to these principles within the district, attention has been paid to application of the principles in the context of the PDP.

Māori relationships

3.6.8 Comprehensive legal submissions and planning evidence was received by the Panel on the combination of s6(e), s7(a) and s8 in the context of the relationship of Ngāi Tahu and Hokonui Rūnanga with lands and waters in the Gore District, and the place of mātāwaka Māori within communities.

3.6.9 Legal submissions illuminating (as opposed to simply mentioning) application of s6(e), s7(a) and s8 in the context of PDP submissions was received from:

- Josh Leckie of Land Neave for Hokonui in HS1, HS3, HS8 and HS9A;
- Shelley Chadwick of Anderson Lloyd in HS8 and HS9A; and
- Sarah Scott of Simpson Grierson for Transpower in HS9A.

3.6.10 Detailed planning advice on application of s6(e), s7(a) and s8 in the context of PDP submissions was received from:

- Matt Heale of The Property Group for Gore District Council in HS1;
- Courtney Bennett for Gore District Council in HS8, and HS9A;
- Amy Beran of Te Rūnanga o Ngāi Tahu for Hokonui Rūnanga in HS4, HS8 and HS9A.

3.6.11 The Panel accepts that the Ngāi Tahu relationship with the lands and waters of the Gore District extends across the entirety of the district and beyond, across the Southland Region and neighbouring Otago Region. This position is understood by the Panel to be supported by the Ngāi Tahu Claims Settlement Act 1998 (NTCSA), the Southland Regional Policy Statement (RPS), which must be given effect to by the plan, and the iwi management plan Te Tangi a Tauira, which the Panel must take into account in its decisions. The Panel also accepts, on the basis of Ngāi Tahu evidence, that Hokonui Rūnanga represent the interests of mana whenua within the Gore District, being one of 18 Papatipu Rūnanga that constitute the iwi authority Te Rūnanga o Ngāi Tahu under the Te Rūnanga o Ngāi Tahu Act 1996[40].

3.6.12 The Panel understands that mātāwaka Māori have a significant presence in the district as a consequence of moving from other parts of the country over time. The need to support the cultural well-being and traditions of Māori, both Ngāi Tahu and mātāwaka, is recognised by the Panel and reflected in decisions, including through provision of Māori Purpose Zones (MPZs) in the PDP.

3.6.13 At the first hearing, Josh Leckie referenced case law indicating that the trinity of s6(e), s7(a) and s8 are "*strong directions to be borne in mind at every stage of the planning process*"[41]. In the same submissions Josh Leckie pointed towards Treaty principles of co-operation, partnership and active participation derived from the NTCSA, relevant to application of s8. He elaborated on these submissions in HS3 appending principles of

[40] Evidence of Dr Lynda Murchison for Hokonui Rūnanga dated 21 May 2024

[41] *McGuire v Hastings District Council [2002] 2 NZLR 577* at [21] – [22], referenced in legal submissions of Josh Leckie for Hokonui Rūnanga dated 31 May 2024

the Treaty of Waitangi and relevant case law to assist the Panel, which additionally referenced the principles of rangatiratanga, mutual benefit and active protection. In recognising and providing for the relationship of Ngāi Tahu with the Gore District in accordance with s6(e), Josh Leckie advised that determining how to do that must necessarily involve input from affected iwi with reference to tikanga Māori[42].

3.6.14 Shelley Chadwick on behalf of the Gore District Council reinforced these submissions in HS8 with particular reference to the Port Tauranga case and emphasised for the Panel that "*when considering any challenges raised in submissions that may be against the values and interests of mana whenua, full weight should be given to the views of mana whenua*" [43].

3.6.15 Sarah Scott of Simpson Grierson acting on behalf of Transpower New Zealand Limited (Transpower) referenced s6(e) in her legal submissions for HS9A, including case law that differentiated the strength of relationships that hapū or roopū had to their taonga, determining that the weaker the relationship the less the need to provide for that relationship. Sarah Scott emphasised that it was the relationship that was of most importance, and noted that the PDP as notified does not depict areas where a stronger or heightened relationship is held to be able to differentiate varying strength of relationships.[44] The Panel understands that Sarah Scott accepts that Ngāi Tahu are in relationship with land and water across the district and is primarily concerned with identification of areas of greater significance to Hokonui Rūnanga than other areas within the district. Sarah Scott agreed under questioning from the Panel that there was no "significance" test in s6(e), which differs from s6(c) in that respect. These matters are most pertinent to consideration of the notified Sites and Areas of Significance to Māori Chapter and its provisions, which the Panel address in that decision. Sarah Scott did not otherwise challenge the basis of legal submissions made by Josh Leckie and Shelley Chadwick.

3.6.16 The Panel adopts the legal submissions of Josh Leckie and Shelley Chadwick as the basis for considering provisions of relevance to Ngāi Tahu, particularly in relation to amendments to the notified Mana Whenua chapter and notified Sites and Areas of Significance to Māori Chapter, and integration of mana whenua values across the plan. The Panel recognises the working relationship between the Council and Hokonui Rūnanga, described in the Charter of Understanding[45], which reflects the Treaty principle of partnership relevant to s8 of the RMA. The Panel observes that this working relationship enabled collaboration during the drafting of the PDP and assisted resolution of matters between the parties throughout the hearing process in response to submissions and evidence.

Natural character

3.6.17 The Panel received evidence that there is no part of the Gore district situated within the coastal environment, and as such s6(a) matters are only relevant to preservation of the natural character of wetlands, lakes and rivers and their margins, and their protection from inappropriate subdivision use and development within the PDP provisions. In terms of

[42] Legal submissions of Josh Leckie for Hokonui Rūnanga dated 18 July 2024, including reference to *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Limited [2020] NZHC 2768* at [73].
[43] Legal submissions of Shelley Chadwick dated 4 December 2024, including reference to *Port Tauranga v Bay of Plenty Regional Council [2023] NZEnvC 270*, para 87, accepted at para 598
[4444] Legal submissions of Sue Scott for Transpower dated 5 February 2025, including reference to *Ngati Hokopu Ki Hokowhitu v Whakatane District Council ENC Christchurch C168/2002*, 13 December 2002 at [45].
[45] Charter of Understanding between Gore District Council and Hokonui Rūnanga 2021

Gore District Council functions, the Panel decisions pertain only to the margins of waterbodies and their natural character. Primarily this relates to the Mataura River and its tributaries which cross the entirety of the Gore district, with the exception that the upper reaches of several small tributaries of the Ōreti River and Mata-au/Clutha River are present on the margins of the district. The Mataura River was included as a High Natural Character area in the notified PDP.

3.6.18 The Panel received advice from Matt Heale on behalf of Gore District Council in HS1 that introducing a Natural Character chapter was a potential response to a submission from Southland District Council on the matter (s146.057), in order to address s6(a) matters as distinct from s6(b) and (c) matters, but he did not recommend that approach at the outset of the hearings process. Matt Heale acknowledged the variety of provisions in the notified PDP that reference natural character[46]. Following HS1, the Panel issued Minute 18 directing further exploration of a Natural Character chapter, in order to recognise and provide for the different roles of s6(a), s6(b) and (c) in the plan, to add interpretive guidance for existing provisions (e.g. an overarching objective for natural character) and to provide for some consistency across the plan in relation to this matter of national importance. Responses to Minute 18 were the subject of legal submissions on scope. The outcome of Panel consideration of submissions and evidence on natural character is set out in Decision 46 Natural Features and Landscapes.

Natural features and landscapes

3.6.19 The notified PDP contained a single outstanding natural landscape on the Hokonui Hills and a single outstanding natural feature at the Mataura Falls/Te Au Nui Pihapiha Kanakana, based on a district-wide landscape study[47], which are the only parts of the district that the Panel considers need to be protected from inappropriate subdivision use and development in accordance with s6(b). Submissions and evidence received by the Panel did not identify any further outstanding natural landscapes or features, although some natural features and landscapes were identified that may be "*locally distinctive and valued*", which is the phrase used in the RPS[48].

3.6.20 The Panel issued Minute 39 following HS9 to direct consideration of additional provisions in the PDP to manage locally distinctive and valued landscapes that were identified in submissions and evidence. The Panel understands that such natural features and landscapes are not matters of national importance but may be relevant to application of s7. Responses to Minute 39 were the subject of legal submissions on scope. The outcome of consideration of submissions and evidence on locally distinctive and valued natural features and landscapes is discussed in Decision 46 Natural Features and Landscapes, which also outlines decisions on provisions to protect the ONL and ONF from inappropriate subdivision, use and development.

Significant indigenous vegetation and significant habitats of indigenous fauna

3.6.21 The Panel received evidence that the majority of the Gore district has less than 1% remaining indigenous vegetation cover, with 148ha lost over the last 10 years, and a number of rare species still resident in the district. Available information was summarised by Natalie Hampson for Gore District Council in her economic assessment for HS10,

[46] Section 42A for Hearing Stream 1 – Introduction, General Provisions and Strategic Direction dated 7 May 2024, para 224
[47] *Gore District Plan Review – Natural Features and Landscapes, Preliminary Assessment*, Mike Moore, 17 February 2023
[48] E.g. Objective LNF.2 of the RPS

which indicated that Gore has one of the lowest areas of remaining indigenous vegetation cover compared with other territorial authorities[49].

3.6.22 The Panel received legal submissions on application of s6(c) in relation to the Ecosystems and Biodiversity chapter from legal counsel for the Director General of Conservation, Ceri Warnock. Ceri Warnock emphasised to the Panel in HS10 that the "significance" test in s6(c) is the starting point to understand what areas need protection, and then how to protect them with reference to higher order documents. Ceri Warnock's submissions were that once an area has been identified as "significant" then there is no legal justification to provide for more permissive rules in one significant area compared to another significant area in the district, nor to allow for continued clearance of areas of indigenous vegetation identified as significant.

3.6.23 Ceri Warnock clarified the difference between "protection", as required by s6(c) and "maintenance", citing case law relevant to that understanding. She also pointed towards the recent decision on the proposed Otago Regional Policy Statement (pORPS) that addresses this distinction and provided a copy for reference by the Panel. The decision on the pORPS references the *King Salmon* case in order to understand the meaning of "protection" in the context of particular areas or aspects of the environment (distinguishing them from the wider environment). Ceri Warnock described "protection" as requiring pro-active prevention measures, whereas "maintenance" at the district-wide level may be achieved by a range of measures, including remediation following clearance, as an example[50].

3.6.24 The Panel accepts the basis of these submissions regarding identification of "significance" as the first step, and then "protection" as the outcome required to be achieved under s6(c). The Panel relies on higher order instruments, in particular the National Policy Statement for Indigenous Biodiversity (NPSIB) and the RPS, to provide guidance on how to achieve protection in the district. The Panel decision on the Ecosystems and Biodiversity chapter, Decision 45, reflects this approach and understanding.

Public access

3.6.25 The Panel considers public access, as a matter of national importance under s6(d), within its decisions on the Public Access chapter of the PDP. The Panel received planning advice from Mishka Banhidi of The Property Group on behalf of Gore District Council that linked public access to s230 of the RMA and provision of esplanade strips. The s32 analysis of public access issues identified that no esplanade strips were created during the life of the operative Gore District Plan. The outcome of Panel consideration of this matter is contained in Decision 35 Public Access.

Historic heritage

3.6.26 Section 6(f) of the RMA requires that historic heritage is protected from inappropriate subdivision, use and development. The RMA definition of historic heritage incorporates a range of natural and physical resources, as follows:

> historic heritage—
> *(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*
> *(i) archaeological:*

[49] Evidence of Natalie Hampson for Gore District Council dated 13 January 2025

[50] Legal submissions of Ceri Warnock on behalf of the Director-General of Conservation dated, including reference to *Canyon Vineyard Ltd v Central Otago District Council [2022] NZHC 2458* [101-125]

(ii) architectural:
(iii) cultural:
(iv) historic:
(v) scientific:
(vi) technological; and

(b) includes—
(i) historic sites, structures, places, and areas; and
(ii) archaeological sites; and
(iii) sites of significance to Māori, including wāhi tapu; and
(iv) surroundings associated with the natural and physical resources

3.6.27 Detailed planning and policy advice on application of s6(f) in the context of PDP submissions was received from:

- Tina Carlson-McColl of The Property Group for Gore District Council in HS8;
- Ailsa Cain of Kauati Limited for Hokonui Rūnanga in HS3; and
- James Sutherland for Heritage New Zealand Pouhere Taonga (HNZPT) in HS8.

3.6.28 The Historic Heritage chapter has a close relationship with the notified Sites and Areas of Significance to Māori Chapter, given the RMA definition of historic heritage. Ailsa Cain covered this relationship in considerable detail in her evidence, including how Hokonui Rūnanga approach the matter of "sites and areas of significance". Ailsa Cain outlined heritage practice from an indigenous perspective, with reference to the United Nations Declaration on the Rights of Indigenous People 2007 (UNDRIP), the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 2010, Tapuwae the HNZPT Vision for Places of Māori Heritage, and Te Tangi a Tauira, the Ngāi Tahu ki Murihiku iwi management plan. Ailsa Cain associated historic heritage with kaitiakitanga (s7(a)), and identified the need for recognition of both heritage referenced in HNZPT lists and Ngāi Tahu values because of the limitations of HNZPT lists when it comes to Māori heritage. She noted that the majority of Māori sites of significance listed by HNZPT across Southland are archaeological sites and that the level of information about such sites is of limited assistance. Overall, Ailsa Cain concluded that heritage practice cannot be relied upon to provide for Ngāi Tahu relationships, practices, uses and associations, particularly in the context of wide scale Ngāi Tahu movement across Murihiku (including the Southland region). This understanding is summarised by her statement that: "*Ngāi Tahu history cloaks the landscape, comprising of many memories and layers that evolve with each generation*". Ailsa Cain outlined Āpiti Hono Tātai Hono methodology that enables assessment of Ngāi Tahu ki Murihiku relationships at the landscape scale, rather than at the typical heritage practice scale of "sites and areas", which is a Ngāi Tahu led approach that can be used to understand heritage connection and relationships with place.[51] Ailsa Cain agreed in response to questions that Āpiti Hono Tātai Hono is one tool available that illuminates Ngāi Tahu relationships with place, alongside the iwi management plan Te Tangi a Tauira and Statutory Acknowledgement Areas, for example.

3.6.29 The Panel received evidence during HS8 that there has been very little archaeological investigation within the Gore district. Recorded archaeological sites are therefore largely indicative of accidental discoveries and have not necessarily been verified by further or recent field survey[52]. The Panel observes that there are very few Māori heritage items or sites on the notified schedules of historic heritage in the PDP.

[51] Statement of Evidence of Ailsa Margaret Cain for Hokonui Rūnanga Incorporated, dated 8 July 2024
[52] Chris Jennings of University of Otago on behalf of Gore District Council in response to Hearings Panel questions

3.6.30 With regard to legal submissions, Sarah Scott of Simpson Grierson acting on behalf of Transpower and Jo-Anne Cook-Munro acting on behalf of Federated Farmers, both emphasised the need to identify "sites and areas of significance to Māori" as part of the PDP, as a means of providing certainty for plan users about how to protect Māori heritage from inappropriate subdivision, use and development. Shelley Chadwick acting on behalf of Gore District Council and Josh Leckie acting on behalf of Hokonui Rūnanga emphasised that such an approach did not accord with the cultural evidence, which outlined that mapping of "sites and areas" would not be consistent with the Ngāi Tahu ki Murihiku approach to, or understanding of, Ngāi Tahu heritage and how to provide for its protection. Both Shelley Chadwick and Josh Leckie agreed that there was no lawful means by which the Panel could compel Hokonui Rūnanga to adopt a mapped "sites and areas" approach. The Panel agrees with Shelley Chadwick and Josh Leckie that there is no means by which to force "sites and areas of significance to Māori" to be mapped and included in the PDP at a scale less than the district as a whole, which was the notified reference. Decisions 14 Mana Whenua chapter and 43 Sites and Areas of Significance to Māori chapter outline the outcome of Panel deliberations on the Mana Whenua chapter and notified Sites and Areas of Significance to Māori chapter, including decisions that address the legal submissions and evidence received on this aspect of historic heritage.

3.6.31 The evidence of Tina Carlson-McColl to the Panel, in conjunction with the technical evidence of Dr Ann McEwen and Chris Jennings, focussed on the Historic Heritage chapter of the PDP and its role in protecting historic heritage items or sites listed in plan schedules, as did the evidence of James Sutherland for HNZPT, who also outlined the relationship of the RMA with the Heritage New Zealand Pouhere Taonga Act 2014 and the role of HNZPT. The Decision 41 contains the decisions of the Panel in relation to the Historic Heritage chapter, its related schedules and the items or sites contained in them, and the proposal for an archaeological alert layer to assist plan users, in conjunction with an Accidental Discovery Protocol, which is also discussed in Decision 37 in relation to the Earthworks chapter.

Customary rights

3.6.32 S6(g) is concerned with protected customary rights as established under the Marine and Coastal Area (Takutai Moana) Act 2011. There are no areas of coastal environment within the Gore district.

Natural hazards

3.6.33 Section 6(h) requires management of significant risks from natural hazards. The Panel received legal submissions and planning evidence on the matter of "significant risk".

3.6.34 Legal submissions on application of s6(h) and "significant risk" were received from:

- Kate Dickison and Philip Maw of Wynn Williams for Environment Southland.

3.6.35 Detailed planning advice on application of s6(h) and "significant risk" in the context of PDP submissions was received from:

- Brett Osborne of The Property Group for Gore District Council; and
- Marcus Roy for Environment Southland.

3.6.36 Brett Osborne focussed in his evidence on the term "management" in s6(h), as differentiated from "avoid" as a response to natural hazards, as well as an understanding of "significant risk" that incorporated the level of protection provided, for example by flood protection works (flood banks). Marcus Roy focussed on the management of "significant risk" in terms of how the level of risk is identified in accordance with best practice and then

managed. Both Brett Osborne and Marcus Roy looked to the RPS for guidance on how to identify and respond to "significant risk", with a particular emphasis on flooding hazards as a consequence of detailed technical evidence on flood risk from Tonkin & Taylor for Gore District Council and more recently from Environment Southland. Mishka Banhidi and Marcus Roy produced a joint witness statement dated 1 April 2025 (in response to Minute 43 from the Panel dated 14 March 2025) that contained a qualified agreed definition of "significant risk" in relation to flood hazard risk, with reference to the Australian Emergency Management Institute Guideline 2014 - Risk Categories, (AEMI Guideline) cited by technical experts as current best practice.

3.6.37 The legal submissions of Kate Dickison and Philip Maw for Environment Southland refer to the common methodology for categorising flood hazard risk used by Tonkin & Taylor and Environment Southland (the AEMI Guideline), and the desire for the detailed recent modelling available for Gore and Mataura townships to be used to understand "significant risk" and manage that risk through PDP provisions. Scope issues arise in relation to this matter, which are discussed in Decision 44 Natural Hazards. Kate Dickison and Philip Maw also focus on the need to "give effect to" the RPS and its guidance on managing significant risk from natural hazards. In particular, submissions discuss RPS Policy NH.5, the extent to which explanation to the policy is to be relied upon when more up to date information is available, and case law around the term "avoid" (King Salmon). The Panel received legal submissions from Shelley Chadwick on behalf of Gore District Council through the hearing that indicated policy wording is determinative, whereas explanations are helpful in understanding intent but not determinative when it comes to applying policy.

3.6.38 The Panel agrees with Kate Dickison and Philip Maw that it is necessary to be clear about what constitutes "significant risk" in order to then manage that risk, and agrees with Kate Dickison, Philip Maw and Shelley Chadwick that decisions must "give effect to" RPS policy within the scope of submissions, including where that policy utilises the term "avoid" in relation to activities in areas at significant risk from flooding hazard. The outcome of Panel deliberations on management of significant flood risk through the provisions of the Natural Hazards chapter is contained in Decision 44.

Section 7

3.6.39 Section 7 in Part 2 was given some attention during the hearing process, although not to the extent of the matters of national importance under Section 6.

3.6.40 Section 7(a), kaitiakitanga, has been discussed in section 3.5.1 Māori Relationships and is defined in the RMA, and was well canvassed in legal submissions and evidence to the Panel.

3.6.41 Section 7(aa), the ethic of stewardship is part of the RMA definition of kaitiakitanga.

3.6.42 Section 7(b), the efficient use and development of natural and physical resources, was identified by KiwiRail in HS4 as relevant to managing the interface of buildings and transport infrastructure, particularly the rail corridor. The Panel has had regard to the relevant submissions and evidence in decisions on residential and industrial zoning, although does not agree with the KiwiRail assessment as to relevance.

3.6.43 Section 7(ba), the efficiency of the end use of energy, may be a matter relevant to the provision of EV charging stations, as discussed in Decision 30 Transport, although no specific evidence was provided to the Panel on this point.

3.6.44 Section 7(c), the maintenance and enhancement of amenity values, was had regard to in the context of HS7 and Decision 37 Earthworks, in HS9 and "locally valued and distinctive natural landscapes", as discussed in in Decision 46 Natural Features and Landscapes.

3.6.45 Section 7(d), the intrinsic values of ecosystems, is relevant to HS10 and Decision 45 Ecosystems and Indigenous Biodiversity and is supported by national direction, regional policy and iwi planning documents. The s42A report for HS10 also linked recommendations on that chapter to s7(a), (aa), (f), (g), and (i), which the Panel agrees are all relevant, as well as (j), although that is more about the placement of renewable energy developments in areas of indigenous biodiversity.

3.6.46 Section 7(f), maintenance and enhancement of the quality of the environment, was referred in evidence for Kowhai Trust in terms of the design of their subdivision proposal for the Rural Lifestyle Zone, along with amenity values in s7(c), which the Panel has had regard to in Decision 17 Rural Lifestyle Zone and which is a matter relevant to subdivision design in general. Decision 37 Earthworks has also had regard to this principle.

3.6.47 Section 7(g), any finite characteristics of natural and physical resources, is relevant to the extent of highly productive land in the district and its management, as discussed in the section on national policy statements in this decision and in Decision 16 General Rural Zone. The Panel has regard to s7(g) in a variety of land zoning decisions that recognise the limits of available land for different purposes.

3.6.48 Section 7(h), the protection of the habitat of trout and salmon, has limited relevance to the PDP, except for management of the margins of waterbodies and activities on the surface of water, which are discussed in particular in Decisions 40 Activities on the Surface of Water and 46 Natural Features and Landscapes, as well as in zone decisions that contain provisions to protect waterbody margins. The extent to which the NPSFM is relevant to decisions is the extent to which habitat of salmonids is protected in the context of the PDP.

3.6.49 Section 7(i), the effects of climate change, are given particular attention in Decisions 4 Urban Form and Development, 16 General Rural Zone, 30 Transport, 39 Infrastructure, 44 Natural Hazards and 45 Ecosystems and Indigenous Biodiversity, and supported by national direction, the National Adaptation Plan, the RPS and iwi planning documents.

3.6.50 Section 7(j), the benefits to be derived from the use and development of renewable energy, is discussed in Decisions 4 Urban Form and Development and 38 Energy and supported by national policy direction.

3.7 National Planning Standards

3.7.1 The National Planning Standards 2019 (the National Standards) seek to achieve national consistency in RMA plans by dictating the structure, format, definitions, noise and vibration metrics, electronic functionality and accessibility of the document.

3.7.2 The PDP has been prepared in conformity with the National Standards and the Panel has adhered with these requirements. This includes the order of chapters in the PDP and the use of abbreviations in Plan provisions. Where a definition is used in the PDP which is listed in the National Standards then the precise wording in the National Standards, without amendment, is used in the PDP. The Panel has followed the mandatory directions in the National Standards regarding which chapters house which type of provisions (e.g. natural hazards provisions in the Natural Hazards chapter).

3.7.3 The Panel received planning advice on how to reconcile tensions between directions in the Standards that arise in relation to the location of provisions. For example, where the Standards direct that provisions on s6 matters such as Natural Features and Landscapes should be located in that chapter of the plan but also direct that provisions on district-wide matters such as Earthworks should be located in that chapter. This introduces a tension

where earthworks occur within an Outstanding Natural Landscape (ONL). Advice received by the Panel on how to resolve these tensions included:

- on district-wide matters in s6 overlay chapters, from:
  - Courtney Bennett for Gore District Council in HS4;
  - Tina Carlson-McColl of The Property Group for Gore District Council in HS7, HS11 and HS12;
  - Mishka Banhidi of The Property Group for Gore District Council in HS7, HS9, HS11 and HS12;
  - Claire Perkins of Landpro for Stoney Creek Station in HS7 and HS11;
  - Ainsley McLeod for Transpower Limited in HS7 and HS9;
  - Tom Anderson of Incite for telecommunications companies in HS7; and
  - Elizabeth Williams for Department of Conservation in HS7;
  - Rachel Thomas for Federated Farmers Southland Province in HS9 (at HS11) and HS9A; and
  - Jo-Anne Cook-Munro for Federated Farmers Southland Province in HS9A.

3.7.4 Planning advice received from Tina Carlson-McColl and Mishka Banhidi indicated that there are a wide variety of options chosen by councils around the country to resolve tensions in the directions of the Standards. The Panel has chosen to place provisions on earthworks, energy and infrastructure within chapters addressing s6 matters that contain overlays, as opposed to the district-wide matters or energy and infrastructure chapters, based on the emphasis given to matters of national importance in the Act. The outcomes in relation to particular chapters and provisions can be found in Decisions 30 Transport, 37 Earthworks, 38 Energy, 39 Infrastructure, 41 Historic Heritage, 44 Natural Hazards, 45 Ecosystems and Indigenous Biodiversity and 46 Natural Features and Landscapes.

3.7.5 The Panel considers the evidence of infrastructure providers that favoured stand-alone energy and infrastructure chapters, with reference to district-wide and s6 matters within the Energy and Infrastructure chapter provisions. Consistent evidence was given to the Panel by infrastructure providers that in the process of establishing new infrastructure every effort is made to avoid sensitive areas where works may intersect with matters of national importance under s6 of the RMA. In that respect the Panel is satisfied that on the few occasions where new or existing infrastructure does interact with matters of national importance it will not be an onerous task for infrastructure providers to reference the relevant chapters with s6 overlays when selecting sites and seeking consents either by way of application or a requirement for a designation. The exception is s6(e) matters for which there are no overlays in the plan, but for which there are provisions contained in the PDP to manage effects on this matter of national importance that will guide applications, as outlined in Decisions 14 Mana Whenua and 43 Sites and Areas of Significance to Maori.

3.7.6 In relation to earthworks, energy and infrastructure, the Panel has chosen to include earthworks provisions within the energy and infrastructure chapters, which is a partial acceptance of the position put forward by infrastructure providers and accords with mandatory direction 30 in the District-wide Matters Standard of the National Planning

Standards. The outcome for provisions is found in Decisions 37 Earthworks, 38 Energy and 39 Infrastructure.

3.7.7 The Panel received legal submissions and planning and policy evidence on the placement of specific chapters in the PDP that were not part of the notified version of the plan, particularly a Natural Character chapter, a proposed Ngāi Tahu Cultural Values chapter and a new Development Area at McNab. The Panel also received legal submissions and evidence on the placement of context and process related provisions in the Mana Whenua chapter in accordance with the National Standards. These matters are subject to scope issues discussed in the context of each relevant decision. The National Standards mandatory directions were covered in legal submissions and evidence on these matters as follows:

- Natural Character as distinct from ONL and ONF, from:
  - Matt Heale of The Property Group for Gore District Council in HS1;
  - Mishka Banhidi of The Property Group for Gore District Council in HS9;
  - Kate Sannazzaro for Federated Farmers Southland Province in HS9; and
  - Ainsley McLeod for Transpower Limited in HS9;
- Ngāi Tahu Cultural Values as distinct from Sites and Areas of Significance to Māori, from:
  - Courtney Bennett for Gore District Council in HS8;
  - Shelley Chadwick of Anderson Lloyd for Gore District Council in HS9A;
  - HNZPT in HS8;
  - Dr Lynda Murchison for Hokonui Rūnanga in HS3;
  - Amy Beran of Te Rūnanga o Ngāi Tahu for Hokonui Rūnanga in HS8;
  - Josh Leckie of Lane Neave for McNab Management Limited in HS8 and HS9A;
  - Rachel Thomas for Federated Farmers Southland Province in HS9A;
  - Jo-Anne Cook-Munro for Federated Farmers Southland Province in HS9A;
  - Ainsley McLeod for Transpower Limited in HS9A; and
  - Sarah Scott of Simpson Grierson for Transpower Limited in HS9A.
- Context and process related provisions in the Mana Whenua chapter, from:
  - Courtney Bennett for Gore District Council in HS3, HS8 and HS9A;
  - Dr Lynda Murchison for Hokonui Rūnanga in HS3; and
  - Rachel Thomas for Federated Farmers Southland Province in HS3;
  - Amy Beran of Te Rūnanga o Ngāi Tahu for Hokonui Rūnanga in HS8 and HS9A; and
  - Josh Leckie of Lane Neave for McNab Management Limited in HS8.
- Development Area at McNab, from:
  - Mishka Banhidi of The Property Group for Gore District Council in HS12.

3.7.8 The outcomes of Panel consideration of the introduction and placement of chapters in the PDP, in response to submissions and evidence and with reference to the National Standards, is found in Decisions 43 Sites and Areas of Significance to Maori and 46 Natural Features and Landscapes. With regards to context and process related provisions in the Mana Whenua chapter, the outcome of Panel considerations are located in Decision14 Mana Whenua.

3.7.9 The Panel received legal submissions on the introduction of precinct overlays in zones, with reference to the National Planning Standards, as follows:

- on a New Vale Precinct in the General Rural Zone, from:
  - Bridget Irving of Galloway Cook Allan for Greenbriar Limited in HS3; and
- on a Rural Industry Precinct in the General Rural Zone, from:
  - Josh Leckie of Lane Neave for McNab Management Limited in HS8 and HS11.

3.7.10 The Panel also received planning advice on the introduction of precinct overlays in zones, as follows:

- on a Rural Industry Precinct in the General Rural Zone, from:
  - Victoria Woodbridge and Courtney Bennett for Gore District Council in HS8; and
  - Christine McMillan of Borisch Consultants for McNab Management Limited in HS8; and
- on a Hokonui Hills Precinct in the General Rural Zone, from:
  - Mishka Banhidi of The Property Group for Gore District Council in HS9.

3.7.11 The outcome for chapters and provisions are contained in Decisions 12 McNab, 16 General Rural Zone and 45 Ecosystems and Indigenous Biodiversity.

3.8 National Policy Statements

3.8.1 Matt Heale advised the Panel in HS1 that there are seven National Policy Statements currently in force that are relevant to the Gore district and to which we must have regard, as outlined below.

National Policy Statement for Electricity Transmission 2008 (NPSET)

3.8.2 The NPSET prioritises the importance of the National Grid which plays an essential role in the well-being of communities and people whilst managing the potential adverse effects associated with this large-scale infrastructure. The NPSET objectives set direction to facilitate the operation, maintenance, and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while managing adverse effects on, and of, the network.

3.8.3 The NPSET includes policies that seek recognition of the national benefits of transmission, management of environmental effects of transmission and the adverse effects on third parties, identification of the network on planning maps, and the facilitation of long-term planning for the network.

3.8.4 The Panel has been advised of the location of National Grid infrastructure within the Gore district, which traverses a range of zones and overlays. Transpower evidence indicated the potential for further development of the network during the life of the PDP, alongside

maintenance and upgrade of existing infrastructure. Throughout the hearing process Transpower made reference to the role of the NPSET in decision-making. The Panel observe considerable alignment between the advice of s42A officers and the evidence from Transpower as to application of the NPSET in the context of each chapter and particular provisions. Where the Panel reaches a conclusion different than that of Transpower on chapters or provisions, this is outlined in the relevant decision. In general, the Panel has been guided by the significance of National Grid infrastructure as expressed in the NPSET when reaching decisions and has given effect to the national direction.

3.8.5 The Panel notes that electricity distribution is not covered by the NPSET and that the distribution network (e.g. Powernet) similarly traverses a range of zones and overlays. Decisions of the Panel treat the electricity distribution network within the district as "critical infrastructure", which is principally discussed in Decisions 3 Introduction and General Provisions, 4 Urban Form and Development and 39 Infrastructure.

National Policy Statement for Renewable Electricity Generation 2011

3.8.6 The NPS for Renewable Electricity Generation 2011 (NPSREG) recognises:

(a) The benefits of renewable electricity generation activities,

(b) The practical implications of achieving targets such as the need to protect assets, capacity and resource limitations,

(c) The practical constraints associated with new and existing generation activities such as logistical and location matters and provision of offset or environmental compensation measures,

(d) The need to manage reverse sensitivity effects,

(e) The need to incorporate provisions for renewable electricity generation activities into resource management plans including solar, biomass, tidal, wave, ocean current, hydroelectrical, wind, and geothermal resources and provision for small and community scale generation, and

(f) The need to enable future generation opportunities.

3.8.7 The Panel has been advised of the potential for development of renewable electricity generation within the Gore district, supported by evidence from Contact Energy and Mercury Energy, and in particular wind farm development. The Panel is aware that the rural environment is most likely to be affected by such development. The Panel has been guided by the NPSREG in decisions, in particular in Decisions 4 Urban Form and Development, 16 General Rural Zone, 17 Rural Lifestyle Zone and 38 Energy, but also the range of decisions across zones, district-wide matters and matters of national importance, such that the instrument has been given effect to through this process.

National Policy Statement for Freshwater Management 2020 (NPSFM)

3.8.8 The Panel has considered the NPSFM to a limited extent, primarily in relation to s6 matters as they are addressed in the PDP, such as management of the margins of waterbodies, ecosystems and biodiversity and the relationship of Ngāi Tahu with waterbodies. Activities on the surface of water are a relevant matter, which is addressed in Decision 40 Activities on the Surface of Water. In large part the Panel relies on the management of s6 matters in the PDP to address Clause 3.5(4) of the NPSFM and give effect to the instrument, in conjunction with consideration of regional plan requirements where those relate to matters within the jurisdiction of the territorial authority.

National Policy Statement for Urban Development 2020 (NPSUD)

3.8.9 The NPSUD requires adequate provision for residential and business growth over the short, medium and long term that is plan enabled, infrastructure-ready and suitable to meet a range of housing and business needs. It also acknowledges that urban environments and amenity values will change over time and while the planned urban built form may involve significant change that detracts from amenity values, this is not considered an adverse effect.

3.8.10 The Panel received advice that Gore and Mataura collectively qualify as an "Urban Environment" under the NPSUD as they are urban in nature and have a combined population and workforce of greater than 10,000 people. This classification is advised as having implications for minimum carparking standards and regular monitoring of housing and business land supply. The role and growth of Gore and Mataura has been signalled in evidence as important in the regional context. Panel zoning decisions are particularly relevant to enabling future growth and development of these townships, along with subdivision matters, which are largely addressed in Decisions 4 Urban Form and Development and 36 Subdivision. The Panel has given effect to the NPSUD in all relevant decisions.

National Policy Statement on Indigenous Biodiversity 2023 (NPSIB)

3.8.11 Matt Heale summarised the NPSIB as containing a national methodology for identifying Significant Natural Areas (SNAs) and requiring their protection and the management of subdivision, use and development within SNAs. Provision is made in the NPSIB for specified infrastructure, mineral and aggregate extraction, new dwellings on existing lots and Māori customary activities. Plantation forestry activities are also required to be managed, and existing activities such as pastoral farming are provided for as part of the national policy framework.

3.8.12 The Panel primarily address application of the NPSIB in Decision 45 Ecosystems and Indigenous Biodiversity, having received conflicting advice regarding its application, in particular in relation to: use of the methodology to identify SNAs; the extent to which the instrument can be applied in light of the Resource Management (Freshwater and Other Matters) Amendment Act 2024 which delayed the mandatory identification of SNAs; and the meaning of Clause 3.16 in circumstances where the NPSIB process for identifying SNAs has not been undertaken. Legal submissions and planning advice for Gore District Council, Stoney Creek Station and Wantwood Station was in general alignment, but as a whole was in conflict with legal submissions and planning advice given on behalf of the Director-General of Conservation. The Panel is persuaded by the advice of Ceri Warnock on behalf of the Director-General, which is further discussed in Decision 45 Ecosystems and Indigenous Biodiversity.

3.8.13 The Panel has received consistent legal advice throughout the hearing that decisions must be made on the law as it stands, rather than as anticipated at some future time based on changes proposed by Government that are not yet visible or have not passed in to law. This is the basis for all Panel decisions on the PDP and is relevant to submitters seeking that the process is paused awaiting legislative changes, including changes to the NPSIB.

National Policy Statement for Highly Productive Land 2022 (NPSHPL)

3.8.14 Matt Heale summarised the NPSHPL as requiring Councils to recognise and provide for the value and long-term benefits of using highly productive land for primary production by avoiding uncoordinated urban expansion and Rural Lifestyle areas on highly productive land that has not been subject to a strategic planning or cost benefit process. Highly productive land includes a land parcel with classified as Land Use Capability Classes 1, 2 and 3 as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification.

3.8.15 The NPSHPL required Environment Southland to notify maps of Highly Productive Land (HPL) in its RPS by October 2025 and then the District Plan needs to incorporate these maps without going through the first schedule process within six months. Changes to district plan provisions are then required within two years and will have to go through the first schedule process. New provisions will cover the following matters:

(a) Avoiding subdivision on HPL (3.8)

(b) Protecting HPL from inappropriate use and development (3.9)

(c) Continuation of existing activities (3.11)

(d) Supporting appropriate productive use of HPL (3.12)

(e) Managing reverse sensitivity and cumulative effects (3.13)

3.8.16 The Panel notes Environment Southland has missed the deadline for the mapping of HPL. In the meantime, highly productive land is land that is general rural and LUC, 1, 2 and 3 but not land identified for urban development in a council adopted growth plan or strategy (Cl 3.5(7)).

3.8.17 Councils can allow urban rezoning of highly productive land only if it is necessary to provide development capacity to meet expected demand, where it is the only reasonably practicable option, and where the benefits outweigh the costs (Cl 3.6(4)).

3.8.18 Rezoning of highly productive land for Rural Lifestyle is to be avoided except where analysis is undertaken considering matters such as permanent or long-term constraints of the land, productive capacity loss, land fragmentation, reverse sensitivity effects, benefits of development versus costs of loss of highly productive land.

3.8.19 The Panel received advice that the Gore district has the second highest proportion of highly productive land of all territorial authorities in the country, being 57.27% of the district[53], and that primary production dominates the district and regional economy[54]. The NPSHPL is therefore of particular relevance to Panel decisions on zoning and management of the rural environment. In response to submissions and evidence the Panel issued Minute 16, dated 16 August 2024, addressing afforestation in the context of the NPSHPL, which prioritises “land based primary production” on highly productive land. This priority land use includes forestry activities but does not distinguish been plantation forestry that is harvested on rotation and exotic continuous cover forestry that is planted with no intention of harvesting, as defined in the National Environmental Standard for Commercial Forestry (NESCF).

[53] Hearing Stream 12 Right of Reply of Joanne Skuse on behalf of Gore District Council, dated 8 April 2025.
[54] Gore District Plan Review - economic and population growth analysis, October 2021

3.8.20 Application of the NPSHPL is primarily addressed in Decisions 12 McNab, 16 General Rural Zone and 17 Rural Lifestyle Zone. The Government has signalled changes to the NPSHPL, as with the NPSIB, but the Panel is obliged to make decisions on the basis of the law as it stands.

National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat 2023 (NPSGG)

3.8.21 Matt Heale summarised the NPSGG as applying to emissions of greenhouse gases from fossil fuel fired heat devices and seeks to reduce emissions by managing discharges to air from the production of industrial process heat. The discharge to air from heat devices is controlled by Environment Southland. The PDP does control hazardous facilities which could potentially include large scale industrial processing activities.

3.8.22 The Panel understands that there is some relationship between provision of coal from within the district for fossil fuel fired heat devices, as discussed in Decision 26 New Vale, and the purpose of this NPS. However, the NPSGG is focussed on the use of fossil fuel fired heat devices rather than the supply of fossil fuels for that use. The NPSGG effectively reduces demand for coal as an industrial heat source as part of climate change response.

3.9 National Environmental Standards

3.9.1 There are eight NESs currently in effect:

NES for Sources of Human Drinking Water 2007

3.9.2 Matt Heale summarised the NES for Sources of Human Drinking Water 2007 as complementing Ministry of Health legislation for improving drinking water supply and delivery to ensure a comprehensive approach to managing drinking water from source to tap. The NES requires regional councils to ensure that effects of activities on drinking water sources are considered in decisions on resource consents and regional plans.

3.9.3 The Panel understands that Gore District Council manages community drinking water supplies and where they are sourced from but does not control contaminant sources affecting them that are managed by Environment Southland. No matters arose during the hearing relevant to this NES, with the exception that new subdivision activity must be able to access potable water supply, as discussed in Decision 36 Subdivision. No evidence was received to suggest this would be unattainable.

NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

3.9.4 Matt Heale summarised the NESCS as establishing national guidelines for managing soil contamination that commenced on 1 January 2011. The NESCS controls the removal of fuel storage systems, sets guidelines and limits for sampling of soil, disturbing the soil, and subdividing and changing use on land subject to potential contaminants on the Hazardous Activities and Industries List (HAIL). The HAIL includes matters such as storage, servicing, disposal and production associated with the following activities: chemicals, electrical and electronic works, power, explosives, metals, minerals, vehicles, cemeteries and waste.

3.9.5 The Panel is aware of the presence of HAIL land within the District, which is shown as an information layer on the Gore District Council GIS system in relation to the planning maps. Application of the NESCS, and ensuring provisions are consistent with it, is primarily addressed in Decision 32 Contaminated Land.

National Environmental Standards for Electricity Transmission Activities (NESETA)

3.9.6 Matt Heale summarised the NESETA as applying to activities concerning existing electricity transmission lines. It sets out a framework of permitted activities and resource consent requirements for the operation, maintenance and upgrading of such lines including the trimming of trees and earthworks. Vegetation clearance associated with transmission lines in a "natural area" is a restricted discretionary activity whilst earthworks are permitted where certain area, location, and construction standards are met. Adequate provision of infrastructure to service growth in a manner that manages impacts on the natural and physical environment and provides for renewable electricity generation and electricity transmission is therefore required through national direction.

3.9.7 Transpower evidence consistently referred to the NESETA and its application in the context of particular chapters and provisions. Similar to the NPSET, advice of s42A officers often aligned with that of Transpower with regards to applying this national direction. Where the Panel reaches a conclusion different than that of Transpower on chapters or provisions this is outlined in the relevant decision. In general, the Panel has been guided by the standards for National Grid infrastructure as expressed in the NESETA to the extent relevant in particular decisions and in order to be consistent with the national direction.

National Environmental Standards for Commercial Forestry 2017

3.9.8 Matt Heale summarised the NES for Commercial Forestry (NESCF) as applying to a range of forestry and ancillary activities, including earthworks, river crossings, quarrying, vegetation clearance and discharges and disturbances, including in relation indigenous species. The objectives of the NES are to maintain or improve the environmental outcomes associated with plantation forestry activities nationally and increase certainty and efficiency in the management of plantation forestry activities. The NES sets out that rules in district plans can be more stringent or lenient than the regulations if they:

(a) Give effect to the NPSFM

(b) Provide for protection of Outstanding Natural Features and Landscapes (ONFL), or SNAs (s6 (b) and (c) of the RMA)

(c) Manage unique and sensitive environments such as drinking water supplies.

3.9.9 The Panel has given consideration to the NESCF in Decision16 General Rural Zone in particular due to its application in the rural environment and as a component of land based primary production as defined by the NPSHPL. Port Blakely Limited, in response to Minute 16 dated 16 August 2024, provided a memorandum of counsel and case law regarding application of the NESCF and the extent to which a district plan may manage forestry in a manner more stringent or more detailed than the national standard[55]. This has been helpful to the Panel in considering application of Regulation 6 of the NESCF and its implications for Decision 16 General Rural Zone to ensure alignment with the national standard and avoid any unnecessary duplication in PDP provisions.

National Environmental Standard for Freshwater 2020 (NESF)

3.9.10 Matt Heale summarised the NESF as setting requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will need to comply with the standards, which are primarily matters to be managed by Environment Southland. The Panel has considered the NESF to a limited

[55] *Rayonier New Zealand Limited and Port Blakely Limited v Canterbury Regional Council CIV-2021-409-570 [2024] NZHC 1478*, supplied by Port Blakely Limited on 14 October 2024

extent, as relevant to the relationship between district plan provisions and regional plan provisions.

National Environmental Standard for Telecommunication Facilities 2016 (NESTF)

3.9.11 Matt Heale summarised the NESTF 2016 as providing national consistency in the rules surrounding the deployment of telecommunications infrastructure across Aotearoa while ensuring the effects on the environment are minimised and managed appropriately. The NESTF provides rules for the following activities:

(a) Cabinets in the road reserve, outside the road reserve and on buildings

(b) Antennas on existing poles in the road reserve

(c) Antennas on new poles in the road reserve

(d) Replacement, upgrading and co-location of existing poles and antennas outside road reserve (with different conditions in residential and non-residential areas)

(e) New poles and antennas in rural areas

(f) Antennas on buildings (above a permitted height in residential areas)

(g) Small-cell units on existing structures

(h) Telecommunications lines (underground, on the ground and overhead)

3.9.12 The NESTF sets out that district plan rules may be more stringent than the regulations in relation to:

(a) Significant Trees;

(b) Historic Heritage values, which includes sites of significance to Māori;

(c) Visual amenity landscapes; and

(d) Significant habitats for indigenous vegetation or fauna

3.9.13 The Panel received evidence from Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa), Aotearoa Towers Group (trading as FortySouth), One New Zealand Limited (One NZ) and Spark New Zealand Trading Limited (Spark) throughout the hearing process where the interests of the telecommunication infrastructure providers were affected. Tom Anderson of Incite provided planning evidence on behalf of the telecommunications companies and consistently drew attention to the role of the NESTF in decision-making. Similar to the electricity network providers, the telecommunications networks traverse a wide range of zones and overlays such that there is discussion of their submission points and application of the NESTF in decisions of the Panel as relevant, ensuring that the decisions are consistent with the national standard.

National Environmental Standard for Air Quality 2004 (NESAQ)

3.9.14 Matt Heale summarised the NESAQ as setting ambient air quality standards that shall not be exceeded. Domestic heating is the principal source of air quality contaminants in Gore (92%) with motor vehicles, industry and outdoor burning forming other sources (8% collectively). While Environment Southland manages air discharges including management of domestic heating, local councils manage land use planning which influences travel patterns and associated vehicle emissions. The Panel agrees with Matt Heale that given the small scale of emissions associated with motor vehicles, the NESAQ is not relevant to the PDP and is more appropriately managed by Environment Southland.

Resource Management (National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (NESGG)

3.9.15 The NESGG applies to climate change effects of the discharge of greenhouse gas into the air and limits devices that burn coal and fossil fuels. The Panel has not identified any particular application of the NESGG in decisions as any relationship with the PDP is similar to that of the NPSGG.

3.10 Other Regulations

3.10.1 The PDP mentions a range of regulations that the plan has been prepared in accordance with, which are referenced in the National Direction Instruments section of the plan, and within definitions in the Interpretation section. These regulations are discussed to the extent they are relevant to a particular decision. The Panel notes that the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 are not relevant because the Gore district has no marine boundary. The Panel does not consider it necessary to further elaborate on various regulations in this initial decision, which has focussed on those where advice has been received or there are live considerations in decisions.

3.11 Southland Regional Policy Statement 2017

3.11.1 Matt Heale summarised the RPS as setting out the framework and priorities for resource management in the region. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). Section 75(3) of the RMA requires the PDP to give effect to the regional policy statement.

3.11.2 The relevant provisions of the Southland RPS were summarised as follows:

a. Mauri and wairua are sustained or improved where degraded, and mahinga kai and customary resources are healthy, abundant and accessible to tangata whenua;

b. Wahi tapu, wahi taonga and sites of significance are appropriately managed and protected;

c. Māori are able to develop and use their land and resources and provide for their social, economic and cultural wellbeing, in a manner that is sustainable;

d. Maintain or improve water quality and ensure flows, levels and allocation regimes safeguard the life supporting capacity of water while meeting user needs;

e. All significant values of rivers and lakes are maintained and enhanced;

f. Achieve sustainable use of Southland's rural land resource in respect of agriculture and primary sector activities, subdivision use and development, use of soil resources, and onsite wastewater systems;

g. Maintain and protect indigenous biodiversity;

h. Natural hazard risks are understood and avoided, remedied or mitigated, resulting in communities becoming more resilient;

i. Southland's outstanding natural features and landscapes, and locally distinctive values natural features and landscapes, are identified and protected from inappropriate subdivision, use and development;

j. Historic heritage resources are identified and protected from inappropriate subdivision, use and development and historic heritage values are managed to address natural processes and climate change effects;

k. Southland's regionally and nationally significant infrastructure and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment;

l. Development of transport infrastructure and land use take place in an integrated and planned manner;

m. Urban (including industrial) development occurs in an integrated, sustainable and well planned manner which provides for positive environmental, social, economic and cultural outcomes; and

n. Sustainable, integrated and well-planned urban development:

   i. maintains and enhances indigenous biodiversity, character, amenity and cultural values of Southland's urban areas;

   ii. provides potable water supply;

   iii. integrates with existing transport infrastructure;

   iv. provides for alternative modes of transport;

   v. provides sufficient land based treatment of sewage and stormwater prior to any discharges to water;

   vi. promotes live-work-play opportunities;

   vii. retains high value soils for productive land uses;

   viii. avoids, remedies or mitigates adverse effects on soil and water quality;

   ix. avoids, remedies or mitigates significant adverse effects from natural hazard events; and

   x. avoids, remedies or mitigates reverse sensitivity effects.

3.11.3 As advised, the RPS also indicates that district plans will:

a. Manage the effects of subdivision, use and development on water quality by encouraging urban growth within areas that have existing infrastructure capacity (RPS Method WQUAL.13);

b. Control urban expansion on rural land (RPS Method RURAL.6);

c. Manage urban growth while protecting a range of natural features, significant infrastructure, as well as the character, amenity and safe and efficient functioning of rural areas and settlements (RPS Method URB.2(a)); and

d. Identify and map urban growth and development, encourage development and redevelopment of existing urban areas ahead of greenfield development, and encourage urban densities that encourage land use, infrastructure and transport integration as well as high quality urban design (RPS Method URB.2(b)).

3.11.4 In every decision, the Panel has been aware of the need to give effect to the RPS, in accordance with s73(4) and s75(3) of the RMA, where the RPS directs various matters within the jurisdiction of Gore District Council. At times the Panel has needed to consider direction contained in the RPS in the light of direction contained in more recent higher order instruments. In such cases the Panel has deferred to the higher order instrument

where there is any discrepancy or gap in coverage in the RPS, given that the RPS may or may not give effect to that higher order instrument, whilst also maintaining a focus on regional and district priorities. This is discussed in the context of specific RPS Objectives and Policies wherever relevant in decisions, such as in relation to ecosystems and biodiversity in Decision 45 Ecosystems and Indigenous Biodiversity. The Panel is guided by case law in this regard, including *King Salmon*.

3.12 Mataura River Water Conservation Order (WCO)

3.12.1 The Panel has considered the Water Conservation (Mataura River) Order 1997. The notified PDP scheduled the Mataura River as a High Natural Character Feature, which is a matter addressed in Decision 46 Natural Features and Landscapes. The dominance of the river within the Gore district has influenced decisions of the Panel, including reference to the Mataura Water Conservation Order and the Mataura River Statutory Acknowledgement Area within the Ngāi Tahu Claims Settlement Act 1998. This is reflected in a range of provisions that manage effects on the river margins, the surface of the river and development in relationship with the river.

3.13 Iwi Management Plans

3.13.1 Matt Heale summarised 'Te Tangi a Tauira – The Cry of the People' the Ngai Tahu Ki Murihiku Natural Resource and Environmental Management Plan as identifying a broad range of relevant matters when considering where and how Gore grows and develops. In particular, there is a desire to:

a. Limit the impacts of climate change on indigenous species and ecosystems and the risks of natural hazards by appropriately managing urban development and providing for sustainable energy and transport systems;

b. Protect sites of significance and indigenous biodiversity areas along with appropriate management of water;

c. Limit impacts of industrial activity and subdivision by involving iwi in decision making processes and managing land use, building and water issues; and

d. Provide for appropriate infrastructure management.

3.13.2 The Panel has taken into account the role and content of Te Tangi a Tauira as part of deliberations and outcomes in Decisions 14 Mana Whenua and 43 Sites and Areas of Significance to Maori. The Panel finds that the iwi management plan is a substantial resource available to plan users to help understand the interests and concerns of Ngāi Tahu ki Murihiku as they pertain to the district. The iwi management plan, alongside evidence received from Hokonui Rūnanga throughout the hearing process, has provided a sound basis for the Panel to understand the implications of decisions and appropriately inform the final version of the Plan. The Panel is also aware of Te Kawa o te Taiao which is specific to Hokonui Rūnanga taiao associations, values, expectations and aspirations, and complements the content of Te Tangi a Tauira. This document has also been taken into account in the decisions of the Panel.

3.13.3 Matt Heale also summarised 'Te Tāhū o Te Whāriki', the Ngāi Tahu Climate Change Strategy, as identifying a need to assess future commercial risks, protect wāhi tapu, mahinga kai and other taonga, prepare plans to relocate Marae and Rūnanga facilities threatened by increasing hazards, as well as influence agencies to develop climate change responses. The Panel has considered marae relocation in response to increasing flood hazard risk as part of Decision 19 Māori Purpose Zone on the location of these Zones in the district, which supports implementation of this Ngāi Tahu strategy.

3.13.4 Shelley Chadwick provided legal submissions to the Panel that the Charter of Understanding between Gore District Council and Hokonui Rūnanga 2021 should be considered to be a relevant document to be taken into account under s74(2A), which the Panel has done, as discussed in relation to s8 of the RMA.

3.13.5 The Panel has also taken into account the Āpiti Hono Tātai Hono assessment reports prepared for Gore District Council during the development of the PDP that were included amongst the available technical reports, as well as the parent report that outlines the assessment methodology[56]. Evidence on this methodology was received in HS3 and is discussed where relevant in response to submissions and evidence in Decisions 14 Mana Whenua and 43 Sites and Areas of Significance to Maori.

3.14 Other Local Policies, Strategies and Plans

Spatial Plan, Ready for Tomorrow

3.14.1 Matt Heale summarised the development of the spatial plan, prepared in response to the NPSUD and the need for integrated management under the RMA, as well as LGA responsibilities to communities. In January 2020, the Council released a strategic planning document Ready for Tomorrow – A Spatial Plan for the Gore District, seeking public feedback on potential growth options for the main urban areas in the district. The document outlines the issues the Council considers important, possible future outcomes and opportunities.

3.14.2 The Spatial Plan incorporates an accumulation of various Council initiatives in recent years, in particular the 2018 Ready for Growth programme. The Ready for Growth strategy provided impetus locally as a community led development strategy, applying the direction given by the Southland Regional Development Strategy at a district level. Its overall objective is to grow the district population by 1,500 people by 2030.

3.14.3 Through extensive community consultation, the Ready for Growth programme has identified a comprehensive overview of the socio-economic conditions required to generate sustainable growth and opportunity across the district and provides an important strategic framework for the future.

3.14.4 The Panel has had regard to the Spatial Plan and its role in response to the NPSUD, particularly in relation to zoning decisions. This is discussed in particular decisions where the outcomes of the Spatial Plan are relevant, such as in Decision 12 McNab.

Gore District Plan Review Economic and Population Growth Analysis – October 2021[57]

3.14.5 Matt Heale summarised the Gore District Plan Review Economic and Population Growth Analysis report, which reviewed the Spatial Plan, Ready for Tomorrow and confirmed that Gore qualifies as an Urban Environment in accordance with the NPSUD. The Panel has applied this understanding in its decisions.

3.14.6 The report projected that Gore would need 860 new dwellings over the next 20-30 years and that, while industry growth would likely remain focused on the agricultural and primary production sector, land within Gore and Mataura should be rezoned to allow for anticipated growth in the manufacturing sector.

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[56] Āpiti Hono Tātai Hono: Ngā Whenua o Ngāi Tahu Murihiku – Stage 1 Southland Cultural Landscapes Assessment Study

[57] 798ddbc243c9b482011262afdea32519_Economic_and_Population_Growth_Analysis_October_2021.pdf (ehq-production-australia.s3.ap-southeast-2.amazonaws.com)

3.14.7 The report identified potential growth areas and signalled that more detailed analysis was needed to test how growth areas identified could accommodate and support growth and how proposed planning controls could best meet existing and future market demand.

3.14.8 The Panel has found this report helpful in understanding the context for decisions.

Gore District Plan Review Planning for Growth – June 2022[58]

3.14.9 Matt Heale summarised the Gore District Plan Review Planning for Growth report built on previous studies and identified areas for growth and re-zoning. The report analysed the identified residential, commercial, industrial and rural areas and recommended district plan controls to appropriately manage these areas. The Panel has also found this updated report to be a helpful contribution to understanding the needs of the district.

New Zealand Heritage List - Rārangi Kōrero

3.14.10 The New Zealand Heritage List – Rārangi Kōrero has been had regard to in Decision 41 Historic Heritage, which records the outcome of deliberations on the Historic Heritage chapter.

3.15 Proposed regional planning instruments

3.15.1 The proposed Southland Water and Land Plan (pSWLP) is the only relevant proposed regional planning instrument. The Panel has had regard to the pSWLP in circumstances where the relationship between regional plan provisions and district plan provisions has a bearing on a particular decision, which is discussed in decision reports where relevant (e.g. earthworks and drain clearance).

3.16 Adjacent territorial authorities

3.16.1 Southland District Council (SDC) is a submitter on the PDP, and this has allowed the Panel to directly consider the perspective of SDC in decisions. Evidence received by the Panel in various hearing streams referenced provisions in the plans of other territorial authorities, including neighbouring territorial authorities, which the Panel has had regard to in its decisions as relevant.

3.17 National Emissions Reduction Plan and National Adaptation Plan

3.17.1 The Panel received evidence in relation to the National Emissions Reduction Plan (ERP) produced in accordance with the Climate Change Response Act 2002 in HS3, although this has since been updated, as discussed in Section 3.2. The Decision 26 New Vale includes some discussion of the ERP as it relates to submissions from Greenbriar Limited.

3.17.2 The Panel is aware that the first National Adaptation Plan produced in accordance with the Climate Change Response Act 2002 is due to be updated. Adaptation and resilience to climate change are matters considered in Decisions 4 Urban Form and Development and 44 Natural Hazards in particular, which support adaptation in the context of the Gore district, such that the Panel has had regard to the plan. The National Adaptation Plan supports nature-based solutions, which is relevant to Panel considerations of those solutions in decisions.

[58] 16561ac752b6ef49890b392a6ce48836_Gore_District_Plan_Review_-_Planning_for_Growth_Report_-_June_2022.pdf (ehq-production-australia.s3.ap-southeast-2.amazonaws.com)

4. Guide to Decisions

4.1 The Decisions

4.1.1 The submissions to the PDP were subject to reporting, assessment and recommendations through reports prepared pursuant to s42A of the RMA. Many of these reports considered individual chapters of the PDP. However, a number of the Reports considering submissions to the Zone chapters and associated zoning shown on the District Plan Maps combined chapters as follows:

Table 6 Section 42A Report Including Multiple Zone Provisions	
Report Title	Provisions
Commercial Zones	Town Centre Zone (TCZ) Local Centre Zone (LCZ) Neighbourhood Centre Zone (NCZ) Mixed Use Zone (MUZ)
Field Days and Camp Columba Zones	Field Days Zone (FDZ) Camp Columba Zone (CCZ)
Natural Open Space and Sports and Active Recreation Space Zones	Natural Open Space Zone (NOSZ) Sports and Active Recreation Space Zone (SARZ)
Rural Chapters	Interpretation General Rural Zone (GRUZ) Rural Lifestyle Zone (RLZ) Settlement Zone (SETZ)
Industrial Zones	Interpretation General Industrial Zone (GIZ) Light Industrial Zone (LIZ)
Residential Zones	Interpretation General Residential Zone (GRZ) Medium Residential Zone (MRZ) Large Lot Residential Zone (LLRZ)

4.1.2 Included with each report was an updated version of the relevant plan provisions dealt with in that report showing changes recommended to the provisions (Appendix A) and a table summarising the submissions considered in that report (Appendix B). For the Reports listed above, Appendices A and B were included individually for each of the chapters listed in the “Provisions” column.

4.1.3 If the Panel was to issue decisions adopting the approach of the s42A Reports listed above, some would exceed 200 pages, with appendices of a similar length. The Panel has therefore chosen to issue decisions separately on each of the zone chapters.

4.1.4 The Rural Zones received more submissions than any other section of the PDP. Common themes were present through the General Rural Zone, Rural Lifestyle Zone and Settlement Zone provisions and associated definitions. A number of requests were also made to change the zoning of land. Given the extent of these matters a standalone decision has been prepared dealing with them.

4.1.5 As the hearings proceeded, a number of repeated submission points were included in the s42A Reports from Environment Southland (S85), KiwiRail Holdings Ltd (S132), Fire and Emergency NZ (S124), NZ Heavy Haulage Association (S77). Rather than repeating the submission points, assessment and outcome in each decision, these together with general submissions across the whole PDP have been included in standalone Decision 2 Whole of Plan and Repeated Submissions.

4.1.6 The Panel also consider a number of “whole of Plan” submissions in Decision 2, and where relevant these submissions are referenced in decisions on particular chapters.

4.1.7 The following decisions have been adopted by the Panel:

Table 7 List of Decisions		
Number	Title	Abbreviation
1.	Preliminary Matters	
2.	Whole of Plan and Repeated Submissions	
3.	Introduction and General Provisions	
4.	Urban Form and Development	UFD
5.	Field Days Zone	FDZ
6.	Airport Zone	AIRPZ
7.	Natural Open Space Zone	NOSZ
8.	Sports and Active Recreation Zone	SARZ
9.	Camp Columba Zone	CCZ
10.	Commercial Zones	TCZ, LCZ, NCZ
11.	Gore District Council Designations	
12.	McNab	
13.	Mixed Use Zone	MUZ
14.	Mana Whenua	MW
15.	Rural Zones – General Provisions, Definitions and Mapping	
16.	General Rural Zone	GRUZ
17.	Rural Lifestyle Zone	RLZ
18.	Settlement Zone	SETZ
19.	Maori Purpose Zone	MPZ
20.	General Industrial Zone	GIZ
21.	Light Industrial Zone	LIZ
22.	Development Areas	DEV
23.	General Residential Zone	GRZ
24.	Medium Density Residential Zone	MRZ
25.	Large Lot Residential Zone	LLRZ
26.	New Vale	
27.	Light	LIGHT
28.	Signs	SIGN
29.	Temporary Activities	TEMP
30.	Transport	TRANS
31.	Designations of Requiring Authorities (Excluding Gore DC)	
32.	Contaminated Land	CL
33.	Hazardous Substances	HAZS
34.	Noise	NOISE
35.	Public Access	PA
36.	Subdivision	SUB
37.	Earthworks	EW
38.	Energy	ENRG
39.	Infrastructure	INFR
40.	Activities on Surface of Water	ASW
41.	Historic Heritage	HH
42.	Notable Trees	TREE
43.	Sites and Areas of Significance to Māori	SASM
44.	Natural Hazards	NH
45.	Ecosystems and Indigenous Biodiversity	ECO
46.	Natural Features and Landscapes	NFL

4.2 Structure of Decisions

4.2.1 Clause 10 of the First Schedule of the RMA sets out matters relevant to decisions. This states:

10 Decisions on provisions and matters raised in submissions

(1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or

plan concerned.

(2) The decision—

(a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—

(i) the provisions of the proposed statement or plan to which they relate; or

(ii) the matters to which they relate; and

(ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and may include—

(i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and

(ii) any other matter relevant to the proposed statement or plan arising from the submissions.

(3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.

(4) The local authority must—

(aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and

(a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and

(b) publicly notify the decision within the same time.

(5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.

4.2.2 With the exception of Designations, each Decision follows the same format with:

(a) Reference to this Preliminary Decision to highlight the statutory matters considered in the decision-making process

(b) Identification of any procedural issues

(c) Details of the hearing, when it was held, who appeared in person or by video and who provided additional information for the Panel to consider.

(d) Submissions being assessed where relevant in the order of:

- General matters
- Interpretation
- Chapter Overview and Purpose
- Objectives
- Policies
- Rules
- Standards
- Mapping

4.2.3 In responding to the submissions lodged, the focus of the Panel in writing decisions is on matters in dispute. Where there is agreement between the submission made, the recommendation of the s42A report writer and the Panel, that is acknowledged with no other explanation.

4.2.4 "Submissions" is not defined in the RMA. For convenience, the Panel has chosen to make decisions on original submissions only. By implication, but not explicitly, it has also made decisions in relation to further submissions.

4.2.5 The Panel has used the following terminology in decisions:

(a) Accept – where the outcome sought in the submissions is adopted

(b) Reject – where the outcome sought in the submissions is not adopted

(c) Accept in part – where part of the outcome sought or implied is adopted. This includes situations where submitters:

- Seek an outcome, such as a rewording a provision or including a new provision, and the Panel has made an amendment but not worded precisely as that sought.
- Seek a change to the Maps, and the Panel has made an amendment in response to the submission, but not precisely as sought.
- Support a Plan provision, and that submission has been amended as a consequence of another submission.

4.2.6 Attached to each Decision, in Appendix A, is a list of all submissions considered in that Decision. The order is that listed in paragraph 4.2.2(d) above. Where practical, like or identical submissions and/or further submissions are grouped, with columns summarising whether the submissions are accepted, rejected or accepted in part. A further column shows whether changes have been made to the PDP provisions as a result of the submission(s).

4.2.7 Where changes are made to the District Plan maps, these changes are shown as part of the Decision.

4.2.8 Also attached to each Decision is an updated copy of the relevant plan chapter. By way of underline (for additions made) and cross-out (for deletions) amendments made arising from that Decision and other Decisions are shown, with footnotes showing the Decision and paragraph number authorising the amendments. In addition:

(a) Changes to the text consequential to decisions are shown in black font, with appropriate referencing.

(b) Changes made across a multitude of provisions as a consequence of amendments made in Decision 2 Whole of Plan and Repeated Submissions are shown in red and do not include referencing.

(c) Changes considered minor in effect are shown in green and include those:

(i) made pursuant to Clause 16(2); and

(ii) resulting from changes to the numbering of provisions as a consequence of provisions having been added or deleted by decisions.

4.2.9 With regard to designations, Decision 11 Gore District Council Designations and the Recommendations to Designations of Requiring Authorities (Excluding Gore DC) (Topic 31) include a summary of the bespoke additional RMA provisions that apply to the consideration of designations.

4.3 Evaluation Assessments

4.3.1 In drafting and preparing the PDP for notification the Council had regard to the matters set out in section 32 of the RMA. The relevant parts of that section state:

32 Requirements for preparing and publishing evaluation reports

(1) An evaluation report required under this Act must—

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2) An assessment under subsection (1)(b)(ii) must—

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—

(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

4.3.2 The Section 32 reports examine whether the objectives in the Proposed District Plan are appropriate and that the policies, rules and methods are an efficient and effective way to realise those objectives. This analysis must be documented so stakeholders and decision makers can understand the reasoning behind the provisions.

4.3.3 There are 27 reports covering a range of topics and chapters in the Proposed District Plan and all are available on the Council District Plan hub. They are:

- Airport Zone
- Commercial Centre Zones
- Contaminated Land
- Earthworks
- Ecosystems & Indigenous Biodiversity

- Energy and Infrastructure
- Field Days & Camp Columba Zones
- Hazardous Substances
- Historic Heritage
- Industrial Zones
- Light
- Mana Whenua
- Mixed Use Zone
- Natural Features & Landscapes
- Natural Hazards
- Noise
- Notable Trees
- Open Space Zones
- Overview and Urban Form & Development
- Public Access
- Residential Zones
- Rivers & River Margins
- Rural Zones
- Signs
- Subdivision
- Temporary Activities
- Transport

4.3.4 Any amendments made to provisions since the initial section 32 evaluation was undertaken are required to be evaluated in accordance with section 32AA. Section 32AA states:

> **32AA Requirements for undertaking and publishing further evaluations**
>
> (1) A further evaluation required under this Act-
>
> (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
>
> (b) must be undertaken in accordance with section 32(1) to (4); and
>
> (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
>
> (d) must—
>
> (i) published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
>
> (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
>
> (2) To avoid doubt an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
>
> (3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

4.3.5 In Minute 5, the Panel directed that where Reporting Officers were recommending changes to the district plan provisions in response to submissions or submitters were presenting evidence seeking changes to provisions not recommended in the s42A Reports, then an assessment should be included in evidence as required by section 32AA.

4.3.6 Where the Panel has accepted the changes recommended or sought, and an assessment has been provided then the Panel has implicitly or explicitly adopted that assessment.

4.3.7 Where the Panel has made changes to provisions in the District Plan or included additional provisions not assessed by Reporting Officers or submitters, then as part of its deliberations the Panel has, to its satisfaction, had regard to the provisions of section 32AA. Throughout the decisions reference is made to a set of provisions or a provision as being the 'most appropriate'. That is the Panel's shorthand for concluding the statutory matters the Panel must have regard to, including the assessment required by section 32AA have been met.

4.3.8 Given the approach the Panel has taken, there are no separate section 32AA headings or tables within or attached to decisions. Rather, the assessment forms part of the Panel's reasoning in each decision. While the specific language of section 32AA may not be used or referred to, the Panel is satisfied that the required substantive assessment has been undertaken.

5 Terminology Used in Decisions

5.1 Acronyms and Abbreviations

5.1.1 In addition to the abbreviations for the District Plan chapters listed in Table 7 (paragraph 4.1.6 above) the following acronyms and abbreviations are used in Decisions:

Table 1: Abbreviations

Controlled Activity	CA
Discretionary Activity	DA
Gore District Council	GDC or 'the Council'
National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011	NESCS
National Environmental Standard for Freshwater 2020	NESF
National Environmental Standards	NES
National Planning Standards 2019	PS
National Policy Statement for Freshwater Management	NPSFM
National Policy Statement for Urban Development	NPSUD
National Policy Statement on Highly Productive Land	NPSHPL
National Policy Statements	NPS
Non-complying Activity	NCA
Operative District Plan	ODP
Permitted Activity	PA
Proposed District Plan	PDP or Proposed Plan
Resource Management Act 1991	RMA or the Act
Restricted Discretionary Activity	RDA
RMA Section 42A Report	s42A Report
Southland Regional Policy Statement 2017	RPS

Table 2: Submitters and Further Submitters Names Abbreviations

Chorus New Zealand Limited	Chorus
Contact Energy Limited	Contact Energy
Department of Conservation	DOC
Environment Southland	ES
Fire and Emergency New Zealand	FENZ
Groundswell New Zealand	Groundswell
Heritage New Zealand Pouhere Taonga	Heritage NZ
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
Kāinga Ora – Homes and Communities	Kāinga Ora
KiwiRail Holdings Limited	KiwiRail
Mercury New Zealand Limited	Mercury
Ministry of Education	MOE
New Zealand Agricultural Aviation Association	NZAAA
New Zealand Defence Force	NZDF
New Zealand Heavy Haulage Association	NZ Heavy Haulage
New Zealand Helicopter Association	NZHA
New Zealand Transport Agency Waka Kotahi	NZTA
Royal Forest and Bird Protection Society of New Zealand Inc	Forest & Bird
Southland District Council	SDC
Southland Federated Farmers of New Zealand	Federated Farmers
Spark New Zealand Trading Limited	Spark
Stoney Creek Station Limited	Stoney Creek
Transpower New Zealand Limited	Transpower
Woolworths New Zealand Limited	Woolworths