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 2: Whole of Plan and Repeated Submissions

Hearings Commissioners

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1. Introduction

1.1 Scope of this Decision

1.1.1 The Council received 130 submissions to the Proposed District Plan (PDP). Some of these were to the PDP as a whole. Where relevant they have been considered in Decisions to individual chapters of the Plan. However, together with issues not considered in the context of individual Plan provisions, they are also included in this decision to enable consideration of any Plan wide issues that may be relevant. These submissions are considered in Part 2 of this Decision.

1.1.2 The submissions were summarised with each issue raised assigned to relevant PDP provisions. Single issues in some cases were assigned to all zones, all chapters or all rules or standards in a particular chapter. Together with issues raised with regard to specific PDP provisions this resulted in 5,540 individual submission points requiring consideration by the Panel. To avoid repetition within each of the Decisions, where practical, the issues assigned to multiple provisions have been grouped together and considered as in a single Decision. For example, Decisions 44 Natural Hazards and 45 Ecosystems and Indigenous Biodiversity contain a number of repeated submission points relevant to those chapters. Other repeated submission points not assigned to individual chapters are considered in Part 3 of this Decision and they relate to submissions lodged by:

- NZ Heavy Haulage Association
- Fire and Emergency New Zealand
- KiwiRail Holdings Ltd
- Ministry of Education

1.1.3 Part 4 of this Decision records in general terms minor changes made to the text and maps of the PDP.

1.1.4 Repeated submission points considered in this Decision were referred to in a number of different s42A Reports provided to the Panel at individual hearings. Where relevant, reference is made to those reports.

1.1.5 The Hearings Commissioners comprising the Panel for the matters contained in this Decision were Commissioners Cliff Bolger, Keith Hovell, Maria Bartlett and Glenys Dickson. No members of the Hearings Panel identified any conflicts of interest.

1.1.6 The Panel's Decision1 Preliminary Matters and Statutory Requirements Relevant to Decisions sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in legal submissions and evidence provided to the Panel. This framework is not repeated in this Decision. Rather, this Decision should be read in conjunction with Decision1.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel have used the following abbreviations:

Full Text	Abbreviation
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Department of Conservation	DoC
Fire and Emergency New Zealand	FENZ
Gore District Plan	Plan
Hearing Stream	HS
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
KiwiRail Holdings Ltd	KiwiRail

NZ Heavy Haulage Association	NZHHA
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under RMA section 42A	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Sites and Areas of Significance to Māori	SASM
Southland Regional Policy Statement	RPS

2. Whole of Plan Submissions

2.1 Withdraw and Pause Requests

Submitter (S) Further Submitter (FS)	Relief Sought
S137.001 Hugh Gardyne	There is no benefit for council to continue this work until the government is clear on RMA reforms and the consequential regulation required by Councils. Delete Chapter 2 - Matters of National Significance (reference to Operative Plan) until new government decides on RMA reforms. Seeks a resolution of Council to write to the Minister of RMA reform to seek guidance on the time of revised legislation.
S66.001 Groundswell NZ	Pause the Gore District Plan until the failings off the RMA have been addressed and clarity around the NPS-IB and the RMA replacement the NBA. Refer to original submission for full details
S66.002 Groundswell NZ	If our submission for the Proposed Gore District Plan to be paused is not accepted, then our submission would be the sections relating to the RMA Section 6 zoning issues outlined in full submission paused. Failing that submission our third preference and submission would be for all Section 6 zonings, policies and related rules be removed altogether for failing to meet the purpose of the RMA. This includes the new SASM classification and policies. We submit natural, historic, and cultural values be protected through an alternative mechanism that is outcomes focused and supports and empowers property owners, rather than penalizing them. One alternative option is a non-statutory plan that sits outside the formal plan but is referenced as meeting the Councils RMA requirements, including Section 6. Groundswell NZ are promoting an environmental policy approach based on integrated and holistic outcomes and actions focused framework in a manner that addresses the environmental issues relevant to that property. A core component of this is advisors working in partnership with property owners to identify key environmental risks, threats and opportunities, and an action plan based on the most urgent priorities tailored to each individual property owner's resources.

2.1.1 Groundswell attended the hearing on 5 June 2024, represented by Laurie Paterson, Russell Faulkner and Diane Smillie. Laurie Paterson highlighted Groundswell had concerns over the impacts of matters contained in RMA s6 and wanted the Plan paused until government announced how s6 matters would be dealt with in the future. A real concern was the manner in which s6 issues impinge of private property rights and in particular the way the Plan identifies the entire District as an Area of Significance to Māori. SNAs, heritage buildings and other s6 matters should only be included in the Plan if approved by the property owner. Diane Smillie expressed concern at the lack of consultation undertaken in preparing the Plan and the impacts that has on farming activities and property values.

2.1.2 Hugh Gardyne attended the hearing in person on 19 August 2024 and spoke to his submission, expressing concern that until the government clarified its intent with the RMA legislation the hearing process should pause. Regard also needed to be given to future local government amalgamation with the Plan aligning with that of neighbouring Councils. He also expressed concern with the input iwi had to the drafting of the Plan and what he considered to be a siffling of development opportunities in the District with additional consenting costs being imposed unfairly on the rights of landowners.

2.1.3 Matt Heale in his s42A Report recommended rejecting these submissions on the basis that no announcements had been made by the government that impacted on the Plan review process. He also noted specific concerns of the submitters on section 6 matters would be considered in other hearings focusing on each of the s6 matters.

2.1.4 The Panel notes that the delegations made to the Panel by the Gore District Council did not provide for the Panel to pause the District Plan process. The Panel is also aware of approaches made to the Council seeking the same outcome, but the Council had rejected those requests. The view of the Panel is that the Operative District Plan is out-of-date curtailing development opportunities and proceeding with the Plan process is essential to adoption, where appropriate, of more enabling provisions and an updated consenting pathway reflecting current best practice, compared to the Operative Plan.

2.1.5 Advice provided to the Panel from Shelley Chadwick, legal Counsel for the Gore District Council, was to the effect that the Panel must apply the current law and it cannot pre-empt the potential outcome of government announcements. In that regard, the Panel has through the decision-making process applied the current provisions of the RMA. Having regard to this advice, and matters referred to by Matt Heale in his s42A Report, submissions S137.001 Hugh Gardyne and S66.001, S66.002 Groundswell NZ are rejected.

Submitter (S) Further Submitter (FS)	Relief Sought
S3.114 Stoney Creek Station Limited S18.116 Reaby Downs Farm Ltd S19.116 Karen Temple S20.116 Sarah and Peter Barclay S24.116 Helen McIntosh S68.118 John Baynes S113.114 Trudy Bokser S116.114 Nathan Bokser S117.114 Greg Bokser S118.114 AW+ JA Johnston Family Trust S127.150 Peters Farm Ltd Karen Peters	Withdraw the requested provisions as outlined in the letter to the Chief Executive of Gore District Council dated 7 November 2023. Concerned about lack of consultation and that many of the more problematic provisions have immediate legal effect and therefore must be complied with until a decision is made on the PGDP.
FS31.002 Department of Conservation	*Disallow S3.114 Stoney Creek Station Limited. The D-G understands that small scale clearance may be required in relation to farming activities however would have concerns regarding the absence of any thresholds. The areas identified for SNAs contain significant indigenous biodiversity and so are of national importance (RMA Part 2, Section 6(c)) that require protection. Accordingly, the permitted activities within an SNA should occur within a much tighter threshold than outside of an SNA. As noted in the overview of the ECO chapter, SNAs are intended to be mapped within the plan as part of a future variation to the plan. This plan variation process will allow for consultation with tangata whenua, landowners and other interested parties. Decline the submission.*

2.1.6 The delegations made to the Panel do not extend to withdrawal of the PDP, either in full or in part. The issues raised in the letter of 7 November 2023 were considered by the Council at its meeting on 21 November 2023. Matt Heale, in his s42A Report to HS1 reported on that meeting as follows:

> The Council also noted that, while there was no breach of the statutory obligations to consult under the RMA, it would have preferred to have undertaken direct consultation with Stoney Creek. The Council also raised a number of concerns about any potential withdrawal of the ECO and NFL chapters including procedural and natural justice shortcomings, plan and

hearing integration issues, time and cost delays, a range of practical issues such as misalignment with national and regional policy, and the immediate impact on biodiversity.

Ultimately, in response to the Stoney Creek letter, the Council agreed:

"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."

Following this direction from Council, the ECO chapter of the PDP has been amended to withdraw the maximum limit associated with fencing and consultation has begun with relevant stakeholders.

2.1.7 Given the issues raised are matters outside of the legal role and delegations of the Panel, submissions S3.114 Stoney Creek Station Limited and others are rejected.

2.2 Jenny Campbell

Submitter (S) Further Submitter (FS)	Relief Sought
S136.001 Jenny Campbell	All environmental decisions made in consultation with Tangata Whenua
S136.002 Jenny Campbell	All environmental decisions be nature based solutions
S136.003 Jenny Campbell	Every environmental decision and policy be made and viewed through a Climate Change lens.

2.2.1 The Panel notes that the RMA provides a framework for the consideration of tangata whenua and mana whenua values both in Plan preparation and during consenting processes. Hokonui Rūnanga were consulted and worked with the Council during the preparation of the Proposed Plan, although it acted in own right in lodging submissions seeking additional outcomes in the Plan content. When consents are lodged the RMA requires consideration of consultation with affected people or organisations and there will be occasions when that includes the Hokonui Rūnanga. That will not however apply in all instances and changes have been made to the Plan provisions to highlight areas of interest to the Rūnanga.

2.2.2 The approach of the Panel in considering nature-based solutions is best summarised by the following addition made to the Infrastructure chapter Overview:

> The use of more sustainable *infrastructure*, such as *green infrastructure and nature-based solutions,* and adoption of technologies to reduce greywater discharges, provides opportunities to improve degraded natural environments, improve local amenity and enhance long-term environmental resilience. These approaches also help to minimise the impacts of *climate change* by improving resilience and allowing *infrastructure* to adapt to change.

2.2.3 This is followed through by additions made to a number of the rules and assessment matters in the Plan where the Panel considers this appropriate and practical.

2.2.4 As noted by Matt Heale at paragraph 179(c) of his s42A Report to HS1, Climate change has already been factored into the development of, and is provided for in multiple sections, of the PDP including Cross Boundary matters in How the Plan Works, definitions including climate change, green infrastructure, UFD overview and UFD-O1 outlines that climate change has been considered in identifying growth areas close to developed areas, ENRG Overview discouraging lignite production, INFR Overview

acknowledging climate change challenges, Natural Hazards overview and NH-O2, NH-P1 noting the need to factor in climate change when considering natural hazards, HH overview and HH-O3 noting risks to heritage associated with climate change, ASW Overview, ASW-O1, ASW-P6, and MRZ Overview.

2.2.5 Having regard to the above matters, submissions S136.001, S136.002 and S136.003 Jenny Campbell are accepted in part.

Submitter (S) Further Submitter (FS)	Relief Sought
S136.004 Jenny Campbell	No new mines, no previous mines being re-opened. This improves the health of people & in particular old & people who are more susceptible to lung and breathing impacts from polluted air.

2.2.6 The Panel notes there is statutory basis to prohibit new mines or to prevent mines reopening. Mining is included in the definition of "primary production" in the National Planning Standards and it is mandatory for the Plan to adopt that definition. The Panel has however ensured through additions to the rules and standards that relevant environmental considerations are had regard to in considering any new mining proposals. That does not achieve the outcome sought in the submission, so as a consequence submission S136.004 Jenny Campbell is rejected.

Submitter (S) Further Submitter (FS)	Relief Sought
S136.005 Jenny Campbell	Restore habitat for all, native species which are often on the endangered list. These cover native plants which are in turn habitats for our endangered invertebrates, birds and fish,

2.2.7 The Panel agrees it is desirable to restore habitat for indigenous species, both fauna and flora however it cannot be mandated. Rather the Panel has sought to encourage, as shown by the following amended policy in the Ecosystems and Indigenous Biodiversity chapter:

ECO-P~~7~~3 Protect, enhance and restore indigenous biodiversity by:

1. minimising the loss, fragmentation and reduction of:
   (a) connections between areas of indigenous vegetation and habitats of indigenous fauna; ~~and~~
   (b) threatened or at-risk and indigenous species populations, including taxa in the Department of Conservation Threat Categories 1 – 3a - nationally critical, nationally endangered and nationally vulnerable; and;
   (c) the mauri of indigenous ecosystems.
2. promoting the creation of connections and ecological corridors between areas of indigenous vegetation and habitats of indigenous fauna;
3. promoting the use of eco-sourced species from the relevant ecological district;
4. maintaining populations of highly mobile fauna across their natural range;
5. enabling mahinga kai;
6. enabling opportunities for mana whenua to promote and participate in the restoration, protection and or enhancement of areas of indigenous biodiversity;
7. supporting initiatives and enabling landowners, community groups and others to protect, restore and maintain areas of indigenous biodiversity;
8. recognising the benefits of farm management practices and active management of indigenous biodiversity, including voluntary animal and plant pest control, livestock grazing management and legal protection;
9. providing for ecological enhancement works that will restore or enhance areas of indigenous biodiversity; and
10. enhancing community knowledge and education.

2.2.8 This policy can be implemented when considering resource consents and by the Council through initiatives it undertakes outside of the formal RMA processes. In that regard, submission S136.005 Jenny Campbell is accepted in part.

Submitter (S) Further Submitter (FS)	Relief Sought
S136.013 Jenny Campbell	Towns need upgraded infrastructure to ensure drains are up to standard to prevent discharges of sewage in to the environment & rivers in particular

2.2.9 As noted by Matt Heale at paragraph 179(d) of his s42A Report for HS1:

> New development and towns will need to ensure sewage is appropriately managed (s136.013) via reticulated services (as required by zone standards such as GRZ-S2) and where non reticulated on site services are provided (for example in LLRZ-P2, RLZ-P2). Furthermore, UFD-O1 and UFD-O7 requires that district and urban environments develop in a way that utilises existing infrastructure and/or can be efficiently serviced with new infrastructure;

2.2.10 The extent to which discharges occur from the Council's reticulated sewerage infrastructure is a matter that fits within the domain of the regional council and the standards it (and government) impose both with regard to accidental spillages and the discharge of treated sewage. That is outside the realm of what can be provided in the District Plan. Accordingly, submission S136.013 Jenny Campbell is rejected.

Submitter (S) Further Submitter (FS)	Relief Sought
S136.022 Jenny Campbell	Vegetation clearance needs to be done under rules e.g. exotic forests.

2.2.11 The Panel notes RMA s6(c) provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna and that is provided for in the Ecosystems and Indigenous Biodiversity chapter with appropriate rules. The Earthworks chapter also manages activities that result in ground disturbance. Beyond that, the RMA is limited to the extent to which the Plan can control vegetation clearance particularly with regard to exotic forests, which once planted have a right to clearance and replanting. Adverse effects that might arise from such clearance, such as impacts on water quality are managed through regional plans and the National Environmental Standards for Commercial Forestry. As no formal controls are included in the Plan related to exotic forest clearance, submission S136.022 Jenny Campbell is rejected.

Submitter (S) Further Submitter (FS)	Relief Sought
S136.023 Jenny Campbell	All new developments eg for housing, transport and industry need to be in appropriate places eg not close to rivers or other large water areas or run- off areas eg on steep slopes, by lakes, on drained wetlands, near estuaries.

2.2.12 The Panel is mindful that land needs to be suitable for its zoned purpose, and where the zoning in the Operative District Plan has been changed it has assessed the appropriateness of that taking into account natural hazards. The Panel has also provided for setbacks ranging in size from 5 - 20 metres from waterways in the District, depending on their size. In that regard, submission S136.023 Jenny Campbell is accepted in part. Other matters such as land stability associated with slope are not provided for in the Plan, rather they are considered under the Building Act.

2.3 Port Blakely Ltd

Submitter (S) Further Submitter (FS)	Relief Sought
S138.007 Port Blakely Limited	That the Proposed Plan be rejected in its current form;
S138.008 Port Blakely Limited	That the Proposed Plan be amended to reflect the issues raised in this submission;
S138.010 Port Blakely Limited	That the relevant Proposed Plan objectives and policies be amended as required to support and implement the particular relief described above;
S138.011 Port Blakely Limited	Such other relief as may be required to give effect to this submission, including alternative, consequential or necessary amendments to the Proposed Plan that address the matters raised by Port Blakely.

2.3.1 These four submissions points are all of a general nature with no specific relief sought that can be given effect as part of standalone submission points. Submissions S138.008 and S138.011 are considered in Decision 16 General Rural Zone and accepted in part. Given the Plan has been amended and not retained in the form notified, sometimes in response to submissions by Part Blakely Ltd, then submissions S138.007 and S138.010 Port Blakely Limited are accepted in part.

Submitter (S) Further Submitter (FS)	Relief Sought
S138.009 Port Blakely Limited	That the Proposed Plan be amended to incorporate the equivalent regulation of the NES-CF or otherwise amend or delete the rule so that the equivalent NES-CF regulation applies instead of the Proposed Plan rule;

2.3.2 Decision 16, General Rural Zone considers issues associated with commercial forestry activities and the relationship of the Plan with the provisions of the National Environmental Standards for Commercial Forestry distinguishing between exotic continuous-cover forestry or plantation forestry. Policies and rules applying to woodlots and forestry have been added to the General Rural and Rural Lifestyle Zones, and to the Natural Features and Landscapes and the Ecosystems and Indigenous Biodiversity chapters where specific submission points from Port Blakely Ltd have been considered along with other submissions. In that regard, submission S138.009 Port Blakely Limited is accepted in part.

2.4 Hokonui Rūnanga Inc

Submitter (S) Further Submitter (FS)	Relief Sought
S139.093 Hokonui Rūnanga Inc	Hokonui Rūnanga Inc supports all the provisions in the proposed plan as notified except for the amendments requested to the stated provisions, as set out in the submissions table and schedule and form part of the submission.

Submitter (S) Further Submitter (FS)	Relief Sought
S139.040 Hokonui Rūnanga Inc	Wherever possible the plan provisions should specify the particular effects of concern to mana whenua to ensure the plan provisions are clear and that appropriate effects are identified and assessed, including when Hokonui Rūnanga Inc may be an affected party. Amend references to 'Ngāi Tahu values' with more detailed description of particular effects to be avoided, remedied or mitigated.
S139.091 Hokonui Rūnanga Inc	Wherever possible the plan provisions should specify the particular effects of concern to mana whenua to ensure the plan provisions are clear and that appropriate effects are identified and assessed, including

	when Hokonui Rūnanga Inc may be an affected party. Make consequential amendments to rules that refer to 'Ngai Tahu cultural values' by adding the words: "as identified in the objectives and policies for this zone and listed in MW2.3"
FS22.050 Clark Fortune McDonald & Associates	*Allow S139.040, S139.091*

2.4.1 These are generic submissions applying to all provisions in the Plan not subject to specific submissions. While providing status to speak to any such provisions the submissions do not provide scope to seek changes to those provisions. As many of the Plan provisions not subject to specific submissions have been amended, submission S139.093, S139.040, and S139.091 Hokonui Rūnanga Inc are accepted in part.

2.5 Southland District Council

Submitter (S) Further Submitter (FS)	Relief Sought
S146.001 Southland District Council	SDC thanks Gore District Council for the opportunity to comment. SDC congratulates those involved for their excellent work and supports in part the proposed Plan, with some issues being discovered during review. No significant cross-boundary issues were identified, only possible differences in the NFL section were identified. The proposed District Plan will bring positive outcomes to Gore communities and the Southland region as a whole. Specific decisions requested are described in the specific sections of this document.

2.5.1 The Panel notes this is an introductory paragraph preceding points of submission rather than an actual submission point. No relevant Plan provision is referred to and no relief sought. The points raised are acknowledged and noted.

2.6 McNab Management Ltd

Submitter (S) Further Submitter (FS)	Relief Sought
S103.031 McNab Management Ltd	Supports all provisions in the proposed plan as notified except for the amendments requested

2.6.1 This is a generic submission applying to all provisions in the Plan not subject to specific submissions by McNab Management Ltd. While providing status to speak to any such provisions the submission does not provide scope to seek changes to those provisions. As many of the Plan provisions not subject to specific submissions have been amended, submission S103.031 McNab Management Ltd is accepted in part.

2.7 Susan Coulman

Submitter (S) Further Submitter (FS)	Relief Sought
S4.001 Susan Coulman	There is a current need for facilitating smaller footprint dwellings and the district plan can allow for and encourage these. It is one of the pillars of future home ownership. The now elderly, baby boom generation are for the most part downsizing their accommodation as they plan for the years ahead. The single dwelling on a large section is an outdated model, the future trend is towards better designed compact living. Allow for more than one dwelling on a property where there is servicing infrastructure either on-site or off-site. Allow for caravans and

Submitter (S) Further Submitter (FS)	Relief Sought
	motorhomes without self-containment certification. Reduce the amount of space required to subdivide properties.

2.7.1 While being a submission to the whole Plan, it was considered in the s42A Report for the Residential chapters of the Plan. Joanne Skuse at paragraph 124 of her Report commented on this submission as follows:

> The submission from Susan Coulman is considered to be largely met in intent through the PDP provisions. The variety in the proposed residential zones aim to provide for different lots sizes across the district and number of dwellings per lot. For example, the MDR enables units at a density of one per 150m^2 to encourage smaller dwelling types which are close to amenities. Similarly, minor residential units are permitted in the residential zones to allow the community to have a potential income as a small rental or provide for extended family who may need to relocate. Whilst increased densities have been enabled, careful consideration is required to balance the need for increase housing opportunities and the impacts those opportunities can have on the amenity, character, safety and wellbeing of a community, alongside more physical environmental constraints such as Natural Hazards. Overall, I consider the PDP will enable the relief sought by Susan Coulman. I recommend no changes to the PDP based on these submissions.

2.7.2 The Panel agrees with that assessment and given this Plan provides for smaller footprint dwellings as requested by the submitter, submission S4.001 Susan Coulman is accepted in part.

2.8 Adrienne Crispin

Submitter (S) Further Submitter (FS)	Relief Sought
S59.002 Adrienne Crispin	Less rules and restrictions. The Council and Government seem to be eroding our rights more and more with unworkable regulations, they should listen to the people more.

2.8.1 The RMA, National Environment Standards, National Policy Statements, the Southland Regional Policy Statement and Regional Plans provide a wide range of matters to be considered in the District Plan and flowing from those matters the Plan must specify the objectives to be achieved. S32 of the RMA provides direction requiring an assessment of the methods, be they rules or other means, used to give effect to the objectives. A series of formal assessment documents entitled “Section 32 Reports” were prepared and they conclude that the rules in the PDP are necessary to achieve the objectives. While the Panel remains mindful to the need to justify that rules are the most appropriate technique to adopt to achieve the outcomes sought in objectives, it notes the submission does not refer to any particular provisions. The Panel therefore is unable to consider the matter further. Accordingly, submission S59.002 Adrienne Crispin is rejected.

2.9 John Baynes

Submitter (S) Further Submitter (FS)	Relief Sought
S68.004 John Baynes	The District Plan is a comprehensive document governing various aspects within the district, which may unintentionally contain errors or adverse effects. Recognising the potential permanence of the Plan, there should be a mechanism for the council to address and modify identified conditions that require adjustment.

2.9.1 The Panel notes that minor errors and corrections that have no material impact are able to be corrected through the decision-making process under clause 16(2) of the First Schedule of the RMA. This includes correcting spelling and grammatical errors and clarifying the intent of text. The Panel also notes that there are a multitude of

submissions that also identify minor errors in the Plan and the Panel will take the opportunity to correct these. The Panel agrees with the sentiment of the submission and as it refers to the process being followed, S68.004 John Baynes is accepted in part.

2.10 Heritage New Zealand Pouhere Taonga (HNZPT)

Submitter (S) Further Submitter (FS)	Relief Sought
S123.020 Heritage New Zealand Pouhere Taonga	Recommend including a hyperlink to the Heritage New Zealand Pouhere Taonga Act 2014 (the Act) online where the Act is referred to, as has been added on page 183, throughout the GDP. A link to the Act would allow plan users ease of access and create awareness of the purpose and provisions of the Act, including any landowner responsibilities under the archaeological provisions.
S123.029 Heritage New Zealand Pouhere Taonga	HNZPT advocates for robust provisions to be established to ensure that residential intensification will not be at the expense of Gore's historic heritage. The construction of a greater number, and potentially taller buildings close to a heritage structure could result in its heritage values being put at risk. This includes issues associated with construction, such as vibration, and potential long-term conservation and livability problems associated with loss of sunlight, overshadowing and damp. Although development on the site of the heritage item may still be subject to resource consent requirements, permitted development on an adjacent property may have as detrimental an effect. Measures such as increased setbacks or reduced heights may assist in mitigating adverse effects on a neighbouring heritage item. HNZPT recommends that appropriate standards are applied to sites adjoining a scheduled historic heritage item or area under the District Plan, as historic heritage is a section 6 matter and also a qualifying matter under the NPS-UD.

2.10.1 Submission S123.020 was included in the s42A Report considering submissions to the Historic Heritage chapter of the Plan. James Sutherland gave evidence by video link on behalf of HNZPT and in discussions with him the Panel noted the Plan would be available in electronic form and that would enable links to be provided to documents external to the Plan, including legislation. As the final formatting of the Plan and provision of links is not subject to the direction of the Panel, this submission is acknowledged and accepted in part to the extent that the Panel's expectation is that, where practical, external links to documents outside the Plan are provided.

2.10.2 Submission S123.029 was considered as part of the Residential Zones hearing. In Decision 23, General Residential Zone the Panel determined as follows (and has nothing further to add):

> The Panel agrees with Joanne Skuse at paragraph 125 of her s42A Report where she asserted applying rules relating to sites adjoining heritage buildings is not appropriate and may result in disproportionate restrictions on the use of neighbouring properties. In the Panel's view, while it is appropriate to provide for the management of activities in close proximity to a registered heritage structure, and that is dealt with in the Historic Heritage chapter, it doubts there is a legal basis on which to extend those provisions onto adjoining land held in a separate certificate of title.
>
> Heritage NZ did not attend the hearing nor submit any written material for the Panel to consider. Accordingly, submission S123.029 Heritage New Zealand Pouhere Taonga is rejected.

2.11 Andrea McMillan & Tony Harpur

Submitter (S) Further Submitter (FS)	Relief Sought
S134.013 Andrea McMillan & Tony Harpur	All matters in the PDP relating to the WTP and buffer (and any ancillary matters) are withdrawn from the PDP; all associated objectives, policies and rules that relate WTFs and buffers are amended to reflect their removal.

2.11.1 Submissions by Andrea McMillan & Tony Harpur were considered at the hearings to consider designations in the Plan and the provisions of the Residential Zones. Two issues are referred to in this submission:

(a) Designation of the Gore District Council Water Treatment Facility (WTF)

This designation has been confirmed subject to conditions in Decision 11 Gore District Council Designations.

(b) The inclusion of a buffer area with associated rules affecting land surrounding the WTF site

The decision of the Panel is to remove the buffer area from the District Plan maps and all references to it in the Plan, as set out in Decision 23– General Residential Zone at paragraph 4.1.6.

2.11.2 As the buffer area on the maps and all relevant provisions in the Plan have been removed, submission S134.013 Andrea McMillan & Tony Harpur is accepted in part.

2.12 Yrless

Submitter (S) Further Submitter (FS)	Relief Sought
S149.032 Yrless	Expresses concern relating to uncertainty of RMA reform, the integrity of the process and lack of consultation. Integrating the Gore District Subdivision and Land Development Bylaw into the plan would provide a single place for the public to access information about development constraints, two approaches is confusing and not best practice. The zoning introduced is too complex and of limited utility given the size of the district. Amend with lesser number of zones.
FS22.055 Clark Fortune McDonald & Associates	*Disallow S149.032 Oppose - while we agree that it is redundant to replicate (or sometimes contradict) that information in both the Subdivision and Land Development Bylaw and the District Plan, we believe the best practice approach (as undertaken by most councils) is to remove engineering standards from the district plan as they are engineering matters not resource consent matters. The proposed approach would require resource consent (adding extra cost and taking up council and applicants time for no benefit) for many things which are not planning matters at all but simple matters of engineering detail. Incorporating that detail into the district plan also means any amendment of engineering standards (including design practices, changes of approved material standards, references to other national standards etc) would require a formal district plan change to make amendments.*
S149.029 Yrless	Amend Residential, Commercial, and Mixed Use zones to revert to a simple approach.

2.12.1 Advice provided to the Panel from Shelley Chadwick, legal Counsel for the Gore District Council, was to the effect that the Panel must apply the current law and it cannot pre-empt the potential outcome of government announcements and future legislative changes. In the Panel's view, regardless of what changes are made to the RMA, there is an overriding need for the Council's District Plan to be updated to facilitate future development in a fit-for-person regulatory framework that overcomes the deficiencies of the Operative Plan. Without that significant development opportunities will be lost.

2.12.2 The Panel in considering submissions to the Subdivision chapter of the Plan determined that including design standards that are not linked to an environmental effect (such as safety of people) from the Council's Subdivision and Development Bylaw were not appropriate. The notified Plan had sought to bring some provisions in the Plan from the Bylaw. For example, the Bylaw determines the thickness of concrete at an entrance and the layout of parking spaces in a carpark. If in the District Plan, non-compliance would require a resource consent. As part of the Bylaw, staff have delegation to wave requirements, providing a time and cost effective option. Further, the Panel was advised Invercargill City and Southland District Council had adopted the approach of including a Code of Practice (based on a former Bylaw) into the District Plan. However, Invercargill City did not carry through with that process, while there are still appeals outstanding with Southland District Council.

2.12.3 Yrless also sought a lesser number of zones. However, the National Planning Standards set out zones required to be included in the Plan and the Council has followed mandatory requirements with a range of zones recognising the different degrees of development provided for example in relation to residential, commercial and industrial zones. The Panel supports that approach.

2.12.4 The Council has though included Special Purpose Zones for Camp Columba, Gore Airport and the Field Days site. These Zones relate to significant developments that would otherwise operate under resource consents, with variations to consents being required to undertake further development. A fourth Special Purpose Zone applies to sites used by Māori for cultural purposes including marae. The Special Purpose Zones are permissive, enabling expansion subject to conditions without the need for further consents. The Panel considers this a positive approach.

2.12.5 For the reasons set out above, submissions S149.032 and S149.029 Yrless are rejected.

2.13 Nigel Cowburn

Submitter (S) Further Submitter (FS)	Relief Sought
S152.002 Nigel Cowburn	The whole plan lacks any meaningful treatment of modern Best Management stormwater Practice e.g. Sustainable Drainage aka SuDS, LID, or Sponge City.
S152.011 Nigel Cowburn	Plan rules need to be prescriptive and to function needs to be able to survive a lowest tender build (comment in relation to permeability controls). Forbid lowest tender acceptance and use NZTA's tender assessment criteria.
S152.017 Nigel Cowburn	The overview is more wordy than it needs to be, and makes it hard to read, in particular in relation to natural values. Riparian aspects are out of date. happy to see that plant species in flood control areas allows for the use of exotics as this is an engineering issue, and setting it to native only (as in some other jurisdictions) would impede successful design. Variable width riparian should be emphasised through text as it would put the function where it needs to be (tends to be headwaters and gully heads) and free up productive land. Retain allowance for use of exotics in flood control areas

2.13.1 The Panel agrees in part with Nigel Cowburn that the approach adopted in the Plan to considering the effects of stormwater could be strengthened. It is an issue considered in the context of submissions to the Residential, Industrial and Subdivision chapters with additions made to the Plan to have regard to low impact design of infrastructure. The Panel is supportive of approaches to stormwater management that provide for the adoption of green infrastructure and nature-based solutions where this can be undertaken without giving rise to off-site effects such as contributing to flooding on adjoining land. This is encouraged in Policy INFR-P3 and can be considered at the time of subdivision and when building consents are sought. Given variations in ground

conditions and in the effects arising from different types of development, the Panel concludes that it is not practical to include mandatory requirements in the District Plan. Rather, to rely on education and the provisions of relevant Council Bylaws and Codes of Practice. Given changes made to the Plan, submission S152.002 Nigel Cowburn is accepted in part.

2.13.2 How tenders or quotes for construction work are considered by developers, and by the Council, is not a matter that can be considered in the District Plan. Accordingly, submission S152.011 Nigel Cowburn is rejected.

2.13.3 Submission S152.017 was considered at the hearing to consider submissions to the Natural Hazards chapter. In Decision 44 Natural Hazards, the Panel determined the following, and has determined that this also applies at the general Plan level:

> The Panel is unsure precisely what Nigel Cowburn is seeking and that was echoed by Brett Osborne in his s42A Report. The Panel notes the reference in the submission to the Overview being wordy but is of the view that it is appropriate. Similarly, the submission refers to riparian planting and that is considered in Policy NH-P7 which encourages use, maintenance and enhancement of natural features and buffers such as riparian planting to manage natural hazard risks. The Panel agrees that riparian planting in the upper catchments can slow water movement and assist with hazard mitigation downstream, but as the headwaters of the major rivers and streams that flow through the Gore District are located in the Southland District, the Panel does not consider there is just cause, or a legal basis, to make such planting mandatory. Hence the focus of the policy is on encouragement. Accordingly, submission S152.017 Nigel Cowburn is rejected.

2.14 New Zealand Agricultural Aviation Association

Submitter (S) Further Submitter (FS)	Relief Sought
S156.001 New Zealand Agricultural Aviation Association	S32 Report does not provide rationale and justification for the approach taken to the setback rules for agricultural aviation.
FS5.1 Hamish Weir FS18.1 NZ Helicopter Association	Allow S156.001 NZ Agricultural Aviation Association

2.14.1 Issues related to agricultural aviation were considered at the Noise chapter hearing. Tony Michelle appeared at the hearing in person on behalf of the NZ Agricultural Aviation Association. Details of the reports and evidence presented at the hearing, and discussions between witnesses and the Panel are provided in section 5.6 of Decision 34 Noise. At paragraph 5.6.14 of that decision, together with paragraph 5.14.2 of Decision 16 General Rural Zone, agricultural aviation has been provided for as a permitted activity without conditions in the Rural and Rural Lifestyle Zones. The Panel considers agricultural aviation and associated noise is an accepted part of the rural amenity of the Gore District. As a consequence of this outcome, submission S156.001 New Zealand Agricultural Aviation Association is accepted.

2.15 Stoney Creek Station and Others

Submitter (S) Further Submitter (FS)	Relief Sought
S3.117 Stoney Creek Station Ltd S18.119 Reaby Downs Farm Ltd S19.119 Karen Temple S20.119 Sarah and Peter Barclay S24.119 Helen McIntosh S68.121 John Baynes S113.117 Trudy Bokser	Amend as per submission. The provisions in general fail to recognise the presence of established farming activities within the district that have low environmental effects yet provide significant social, cultural and economic benefits. Farming in particular is subject to significant increases in the level of restriction when compared with other land uses, and subject to unworkable provisions that have been developed

Submitter (S) Further Submitter (FS)	Relief Sought
S116.117 Nathan Bokser S117.117 Greg Bokser S118.117 AW+ JA Johnston Family Trust S127.153 Peters Farm Ltd Karen Peters	without input from the farming community. These restrictions are particularly restrictive in ONLs and are not practical for farming activities and creates uncertainty and cost to rural landholders that is not proportionate to the potential environmental effects. Amend as per submission.
FS31.003 Department of Conservation	*Disallow S3.117 The D-G understands that one of the principal functions of the rural environment is to provide for productive rural activities, however the Council are also required to identify and protect outstanding natural landscapes and features as required under Part 2, s6(c) of the RMA.*

2.15.1 These submissions were considered as part of HS1. At paragraph 187 of his s42A Report, Matt Heale commented as follows:

> The significant role of the farming community is acknowledged in a number of locations throughout the PDP including UFD-10 and GRUZ-O1. Furthermore, NFL-P1 recognises the existence of working pastoral farms and their contribution to the openness and landform legibility of outstanding natural features and landscapes.

2.15.2 Throughout the hearing and decision making process the Panel has been mindful of the effect of rules on the wider primary production sector. This is reflected in Decision 46 Natural Features and Landscapes, where at paragraph 6.4.28 it has included an additional policy, part of which reads:

> NFL-P5 Enable the continuation of existing lawfully established activities within Outstanding Natural Features and Landscapes, including:
>
> 1. working pastoral farms, recognising they contribute to the openness and landform legibility of outstanding natural features and landscapes; and

2.15.3 Given changes made to the provisions of the Plan, including to various rules, submissions S3.117 Stoney Creek Station Ltd and others are accepted in part.

2.16 Transpower

Submitter (S) Further Submitter (FS)	Relief Sought
S101.103 Transpower New Zealand Limited	Support in part the PDP as it relates to the National Grid, and particularly the extent to which the provisions of the PDP give effect to the NPS on Electricity Transmission 2008. The specific details of Transpowers submission, and decisions sought in relation to the PDP are set out in Appendix A of the submission. It is Transpower's submission that the Proposed District Plan goes a long way to achieving the statutory requirement set out above but that further amendments to the Proposed District Plan are required.

2.16.1 This is the introductory paragraph to the submission by Transpower. It is generally supportive of the provisions in the PDP recognising and applying to the National Grid, but noting additional changes are required. In response to individual submission points, a number of changes and additions have been made to the Plan, both in the zone and district wide chapters. As a consequence, submission S101.103 Transpower New Zealand Limited is accepted in part.

2.17 Support for Other Submissions

Submitter (S) Further Submitter (FS)	Relief Sought
S68.001 John Baynes	Supports the Stoney Creek Station Ltd submission verbatim. Has read the submission and supports it in full, considers it more efficient to support it than writing own submission.
S68.002 John Baynes	Adopt content of the Federated Farmers of New Zealand submission as expert advice.
S68.003 John Baynes	Support the Federated Farmers of New Zealand submission.
S115.001 Kevin Robertson	Supports Federated Farmers Submission Practical and common-sense ideas are needed to achieve successful outcomes

2.17.1 These submissions support the submissions of Stoney Creek Station Ltd and Federated Farmers. They do not refer to particular provisions in the Plan or seek any specific changes. As a consequence, these submissions are acknowledged and noted.

3. General Submissions on Issues

3.1 Sites and Areas of Significance to Māori (SASM)

Submitter (S) Further Submitter (FS)	Relief Sought
S60.178 Ronald Crispin S68.296 John Baynes S115.176 Kevin Robertson S126.175 Southland Federated Farmers of New Zealand S143.187 Rural Ratepayers Group S148.188 Alistair & Bernadette Hunt	The SASM chapter employs an approach whereby the entire District is considered a 'site'. The s 32 report refers to a trigger approach, with resource consent applications acting as 'triggers' for the Council to consider the impact on Ngāi Tahu cultural values. SFF acknowledges the Māori view of guardianship over land, areas of interest and landscapes. However, the rights of landowners are paramount and must be prioritised. The plan's approach to requiring assessment against cultural values for consents for normal farming operations will only drive conflict as it regulates and restricts even the most minor activities. See Appendix A for complete submission. We have assessed the Plan and identified that there are 91 rules or standards which include a matter of discretion and/or control as assessment against Ngāi Tahu cultural values . We assume that the Council considers all of these 91 rules/standards as 'high risk' and therefore requiring assessment against cultural values. In this respect, we feel that the s 32 report has not accurately captured the council's intent to not hinder farming operations by triggering cultural assessment for day- to-day primary production activities.
FS20.021 Hokonui Rūnanga Inc.	*Disregard S126.175. The submitters reasoning the private property rights are paramount is erroneous in law; and will not achieve the purpose of the RMA or give effect to the Southland Regional Policy Statement*
S139.039 Hokonui Rūnanga Inc	Mana whenua elected not to identify 'sites of cultural significance' in the plan because mana whenua have an enduring relationship with all of the District. All whenua and wai has whakapapa, history, mauri and meaning for mana whenua. Identifying sites as culturally significant implies other areas are not. Mana whenua determine which land uses may be appropriate in any situation considering matters such as whakapapa, natural capital, relationship with other areas in a broader cultural landscape, past and current land uses, mauri of the area and effects of the proposed activity on mauri. However, there are some policies in the plan that refer to the effects of activities on 'Sites of Cultural Significance.' Delete all references to 'sites of cultural significance' and replace with 'or significant effects on the values mana whenua associate with the area'. Work with Hokonui Rūnanga Inc on a variation and guidance from a mana whenua perspective.
FS5.9 Hamish Weir	*Disregard S139.039 in part. Submitter is concerned that this will result in consultation for all Resource Consents*

Submitter (S) Further Submitter (FS)	Relief Sought
	which will place a significant cost burden on applicants and the Rūnanga. . Defining the relevant sites would give applicants clarity and restrict consultation to appropriate matters
FS30.038 Transpower NZ Ltd	*Allow S139.039. Allow the submission to the extent that a variation is developed to address culturally significant sites.*
FS26.001 Mercury Ltd	*Allow S139.039. Mercury support Hokonui Rūnanga Inc approach to Mana whenua determining which land uses may be appropriate considering matters such as whakapapa, natural capital, relationship with other areas in a broader cultural landscape, past and current land uses, mauri of the area and effects of the proposed activity on mauri.*

3.1.1 The issues raised in these submissions were considered in HS3 Mana Whenua and HS9A SASM with the deliberations and decisions of the Panel set out in Decisions 14 and 43 respectively. This has resulted in the deletion of reference to the District as a whole as being a Site and Area of Significance to Māori. While the Panel recognises the advantage of listing particular Sites and Areas of Significance to Māori in the Plan, the provisions of the RMA only allow those sites and areas to be included with the approval of Māori. Hokonui Rūnanga, as the relevant rūnanga to engage with on matters relating to mana whenua within the Gore District, did not support a listing of sites and areas of significance in the Plan.

3.1.2 The outcome of the Panel's decisions is to replace the title of the SASM chapter with Ngai Tahu Cultural Values and identifying the activities that have the potential to impact on mana whenua values. The Mana Whenua chapter provides context and process-related provisions in the Plan relevant to mana whenua interests reflecting the requirements of the RMA and only as part of processing resource consents.

3.1.3 The Panel does not accept that the Plan provisions require assessment against cultural values for normal farming operations. The submissions of Ronald Crispin and others referred to 91 primary production activities that now require resource consent. As noted by Courtney Bennett at paragraph 116 in her s42A Report to HS3 that list included temporary military training and retirement homes in Residential zones. The Plan enables primary production activities throughout the District with limits only applying where subject to district wide matters, for example, indigenous biodiversity and significant natural landscapes. However, such limits do not apply to lawfully established existing uses.

3.1.4 The Hokonui Rūnanga submission referred to preparing a Variation to the District Plan. The Panel considers that unnecessary given the range of submissions lodged. Further, the Variation process would delay completion of the hearing and decision-making process.

3.1.5 Further and more detailed discussion of issues raised in these submissions is contained in Decision 14 Mana Whenua and Decision 43 Sites and Areas of Significance to Māori. As changes have been made to both chapters in response to matters raised, submissions S60.178 Ronald Crispin and others and S139.039 Hokonui Rūnanga Inc are accepted in part.

3.2 Existing Use Rights

Submitter (S) Further Submitter (FS)	Relief Sought
S60.183 Ronald Crispin S68.301 John Baynes S115.181 Kevin Robertson S126.180 Southland Federated Farmers of New Zealand S143.192 Rural Ratepayers Group S148.193 Alistair & Bernadette Hunt	The Plan communicates the RMA requirements regarding existing use rights, as per s 10 and 10A. However, we find the application of both 'existing use rights' and 'lawfully established' to be inconsistent throughout the Plan with neither term being defined.

3.2.1 Matt Heale at paragraphs 180 - 184 of his s42A report for HS1 sets out the manner in which "existing use rights" are described in the Plan, referring to the relevant RMA provisions, and where references are made to "existing use rights" and "lawfully established activities" in the Plan. The Panel accepts that the concept and what is included as an existing use can be complex and confusing. However, the Panel does not consider it appropriate to provide an explanation, other than to refer to the relevant provisions in the RMA. Each situation requires separate determination and the application of legal principles and case law. In other words, there is no single answer, and in the Panel's view anything included in the Plan is likely to fail one or more legal tests.

3.2.2 In the written evidence of Rachel Thomas and Bernadette Hunt presented at HS1 examples were provided where slight variations in wording were used in the Plan. Where appropriate, the Panel has made minor amendments to the wording to improve consistency. As a consequence, submissions S60.183 Ronald Crispin and others are accepted in part.

3.3 Financial Contributions

Submitter (S) Further Submitter (FS)	Relief Sought
S126.179 Southland Federated Farmers of New Zealand S60.182 Ronald Crispin S148.192 Alistair & Bernadette Hunt S143.191 Rural Ratepayers Group S115.180 Kevin Robertson S68.300 John Baynes	The Efficiency and Effectiveness Report 2022 recommends the ability to collect financial contributions be incorporated into the District Plan. SFF strongly supports the use of financial contributions to fund infrastructure. The concept of 'growth pays for growth' is relevant because in the instance where financial contributions are not in place it is farmers who pay the majority share of infrastructure as a major contributor to rates. A targeted financial contribution system ensures that developers pay their fair share towards new infrastructure, for example as growth occurs in greenfield areas.
S140.014 Robina Johnston	Financial contributions should offset future costs in the specific location of the activity, further work needed on what is appropriate and consideration should be given of commercial vs non-commercial activities. Payment should be in part at key steps.
S69.008 Ian Davidson- Watts	The District Plan is a valuable tool to provide for well planned and executed growth and development in a sustainable way. Supports the overall objectives and policies of the plan that values important natural and cultural assets and manages development. Concerned at the current lack of development contributions policy. New development without financial contributions places extra burden on existing ratepayers for maintaining and improving infrastructure.
FS22.054 Clark Fortune McDonald & Associates	Disallow in part S69.008 Oppose (in part) - while development contributions may potentially be appropriate if maintained at a low enough level (relative to land values and construction costs) that they do not stifle development, Gore has had problems in the past with development being stifled by excessive development/financial contributions which were out of

Submitter (S) Further Submitter (FS)	Relief Sought
	proportion to relatively low property values, making development unviable and preventing growth. It is worth considering that new property development typically results in more rate-paying property contributing to infrastructure etc.
FS5.6 Hamish Weir	Disallow in part S69.008 While I agree with Ian's concerns around cost falling on rate payers, I am concerned that this will considerably reduce subdivision consents for a period of time until all those consented without contributions are given effect to. This lag will cause a supply restriction which will put upward pressure on property values. I would request that any Policy is formulated on a study of the current costs to rate payer of no contributions. I suspect that the increase in number of rate payers across the district is offsetting these costs. Specific consideration should be given to all of these matters before any Policies are implemented.

3.3.1 Matt Heale at paragraphs 82 - 84 of his s42A Report to HS1 in referring to the submissions of Federated Farmers and others and Robina Johnston commented on the issue of Development Contributions Policy as follows:

> As part of the development of the PDP, the Council had to consider how it would fund infrastructure. A paper went to the Assets and Infrastructure Committee on 6 June 2023 to consider whether infrastructure should be funded via financial contributions in the PDP or development contributions.
>
> The paper provided a comprehensive analysis of the funding options and concluded that: "Given the current situation in Gore, the Council is effectively starting from scratch in terms of developing a policy for funding infrastructure to service growth. Both financial contributors and development contributors are a suitable option and would require the same financial modelling to justify the amount to be collected. Development contributions are however recommended as preferable. They offer greater security to Council as a funding stream given the impending reforms and are a flexible tool, able to be to respond to the district. It is recommended that a development contributions policy is developed for the Gore District, noting developer agreements are also available under sections 207A - F LGA. This approach is considered to be the most equitable given the current financial situation and the uncertainty associated with RMA and 3 waters reform."
>
> The Committee resolved to commence the development of a Development Contribution Policy in conjunction with the 2024-2034 Long Term Plan. As a consequence, financial contributions are not included in the PDP. Infrastructure will be funded as outlined in the current Long Term Plan by ratepayers or via conditions of resource consent directly, as required. Infrastructure required for growth will be funded through development contributions taken at the time of development following the completion of the Development Contribution Policy.

3.3.2 The submissions of Federated Farmers and others and Robina Johnston were also referred to by Joanne Skuse in the s42A Report prepared for the Subdivision chapter hearing repeating the assessment by Matt Heale as above. She concluded that "as the Council is currently progressing a Development Contribution Policy … I do not recommend FCs are included in the plan".

3.3.3 None of the evidence presented at either of the hearings commented on this issue.

3.3.4 With regard to the submissions considered at the Subdivision chapter hearing, the Panel in Decision 36 Subdivision has stated:

> The Panel agrees with Robina Johnston that the Council should have in place mechanisms to cover potential public costs arising from future development and growth in the Gore District. Current legislation enables that to be done under the RMA through District Plans or under the Local Government Act 2002. During the preparation of the Proposed Plan, the Council opted not to include financial contributions in the Proposed Plan but rather rely on

development contributions under the Local Government Act, and where appropriate, development agreements.

For financial contributions provisions to be included in the Plan, considerable work would be required assessing an appropriate framework and its economic implications. Notwithstanding submissions requested provisions be included in the Plan, the Panel is of the view that natural justice issues would necessitate the preparation of a Variation to the Plan with notification to enable all interested and affected persons to submit. The Panel does not have the authority to initiate the Variation process. That can only be done by the Council. Similarly, only the Council can instigate the process of preparing and consulting on a Development Contributions Policy. Therefore, submissions S140.014 Robina Johnston and S126.179 Southland Federated Farmers of NZ and others are acknowledged and rejected.

3.3.5 Having regard to the matters above, submissions S140.014 Robina Johnston and S126.179 Southland Federated Farmers of NZ and others and S69.008 Ian Davidson-Watts are rejected.

3.4 Wellbeing

Submitter (S) Further Submitter (FS)	Relief Sought
S60.184 Ronald Crispin S68.302 John Baynes S115.182 Kevin Robertson S126.181 Southland Federated Farmers of New Zealand S143.193 Rural Ratepayers Group S148.194 Alistair & Bernadette Hunt	Throughout the Plan, 'well-being' is referred to as wellbeing. Under both the Local Government Act 2002 and the Resource Management Act 1991 this is captured as 'well-being'. The Plan should align with the legislation. Change wellbeing to <u>well-being</u>

3.4.1 The submitters highlight a minor error with the use of the word wellbeing. The Panel agrees this should be “well-being” and in updating the Plan provisions this has been corrected. Submissions S60.184 Ronald Crispin and others are therefore accepted.

3.5 Wilding Trees

Submitter (S) Further Submitter (FS)	Relief Sought
S136.011 Jenny Campbell	Tend to produce wildings over adjacent native forest & farm land. Planting of exotics must not be given resource consent. e.g., Pinus contorta, Pinus - other species, firs, eucalyps. Decrease the number of pine plantings & strictly adhere to banning planting on steep slopes as well as requiring each company to chip all waste & slash at each logging site. Instead encourage planting of natives encouraging diversity of species.
S85.001 Environment Southland	Exotic wilding tree species have the potential to cause widespread adverse ecological, amenity, economic and cultural effects. Establish a new chapter similar to chapter 34 of the QLDC PDP. Douglas Fir and other wilding species outlined in the QLDC chapter should be prohibited from being planted in the Gore District
FS31.001 Department of Conservation	*Support S85.001 Environment Southland. NZ's Wilding Conifer Management Strategy aims to prevent the spread of wilding conifers by 2030 and identifies the role of Territorial Authorities to establish appropriate rules in district plans to ensure that landowners avoid high risk plantings in high spread areas. Any provisions proposed would need to exclude commercial forestry which is managed under the NES for commercial forestry 2023.*
FS11.006 Heritage New Zealand Pouhere Taonga	*Support S85.001 Environment Southland. Wilding plants have the potential to damage known and unknown archaeological sites. It is preferable that the planting of exotic species is avoided at archaeological sites and protection is provided from future wilding. HNZPT also recommends that the effects of wilding exotic trees on archaeology are managed through an additional chapter in the District Plan.*

Submitter (S) Further Submitter (FS)	Relief Sought
FS5.2 Hamish Weir	*Support S85.001 Environment Southland in part. I support establishment of exotic forestry in locations where they do not replace productive rural activities, can suppress weed species and produce timber. A balance needs to be struck between allowing forestry in appropriate locations without resource consents and preventing entire productive farms being converted into 'carbon farms'. Carbon farming should be a prohibited activity in my view and all trees should be planted with a view to harvesting.*
FS20.006 Hokonui Runanga Inc	*Support S85.001 Environment Southland in part. Wilding spread needs to be managed to achieve the purpose of the Act.*
FS10.005 Port Blakely Limited	*Oppose S85.001 Environment Southland Unnecessary duplication, wilding pine is already regulated by the NES-CF and the Southland Regional Pest Management Plan.*

3.5.1 Decisions made by the Panel through the current submission process provide for woodlots (up to 1 ha in area) and plantation forestry as a permitted activity (excluding areas of outstanding natural landscapes) within the General Rural and Rural Lifestyle Zones. Exotic continuous-cover forestry, also described as carbon forestry, is being listed as a discretionary activity in those zones, defaulting to a non-complying activity if located on highly productive land.

3.5.2 The Southland Regional Pest Management Plan 2019 controls exotic pest plants specific to Southland such as crack willow, wilding conifers, mountain pine, and contorta (lodgepole) pine, while the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 requires an assessment of wilding tree risk to be undertaken prior to planting any conifer species. In that regard, the Panel notes Douglas fir (referred to by ES) is a conifer and therefore managed by the NESCF.

3.5.3 The Panel is therefore of the view that any provisions included in the District Plan would merely duplicate statutory provisions already in place and for that reason does not consider that there is any benefit by including provisions in the Plan referring to wilding trees. Accordingly, submission S85.001 Environment Southland is rejected.

3.5.4 Jenny Campbell seeks to ban planting on steep slopes as well as requiring each company to chip all waste and slash at each logging site. The Panel is unclear as to what constitutes steep land and the reasons for introducing controls. The Gore District does not have extensive areas of unstable high country and notes the Southland Regional Water and Land Plan contains relevant provisions for such land. The Panel does agree that planting of indigenous trees and shrubs should be encouraged and this underpins some of the additions made to the Ecosystems and Indigenous Biodiversity chapter. In that regard submission S136.011 Jenny Campbell is accepted in part.

3.6 Non-Complying Default Rules

Submitter (S) Further Submitter (FS)	Relief Sought
S99.027 Clark Fortune McDonald & Associates	A majority of the zone chapters have rules stating that "any activities not listed" are non-complying activities". This is rather severe and a significant change in approach from the ODP which provides a discretionary activity status. Amend those rules stating that "any activities not listed" are non- complying activities to be discretionary activities.
S147.026 New Zealand Defence Force	Zone rules have a default non-complying activity status when it is not a specified activity. This is considered unnecessary, particularly where activities are of low scale and may have minor effects and amend to Discretionary
FS5.10, FS 5.8 Hamish Weir	*Support S99.027 Clark Fortune McDonald & Associates and S147.026 New Zealand Defence Force. Discretionary is the appropriate status*

Submitter (S) Further Submitter (FS)	Relief Sought
FS29.002, FS29.001 Silver Fern Farms Limited	*Support S99.027 Clark Fortune McDonald & Associates and S147.026 New Zealand Defence Force. Non-complying default activity status for unspecified activities may not be appropriate in all circumstances. Needs a more nuanced approach.*
FS26.003 Mercury Ltd	*Support S99.027 Clark Fortune McDonald & Associates. Supports the approach in the operative Plan, which defaults to a discretionary activity status for activities not listed.*
FS21.002, FS21.001 Yrless Limited	*Support S99.027 Clark Fortune McDonald & Associates and S147.026 New Zealand Defence Force. Applying a non-complying status to an activity can attract significant costs for activities that have minor/less than minor environmental effects. Amend the plan to limit non- complying status to those activities requiring that level of control.*
FS22.048 Clark Fortune McDonald & Associates	*Allow S147.026 New Zealand Defence Force. Support - we agree that the activity status for non specified activities should be discretionary, as non-complying is an impractically high test to impose for activities GDC have not yet considered.*

3.6.1 Matt Heale at paragraphs 168 - 178 of his s42A Report to HS1 provided an extensive assessment of the approach adopted in the Plan listing the various rules in the PDP where non-comply status applied. He considered the approach consistent with caselaw, in particular, King Salmon v Environmental Defence Society [2014] 17 ELRNZ 441; Port Otago vs Environmental Defence Society Inc and Others [2023] NZSC 112 [68]; R J Davidson Family Trust vs Marlborough District Council [2018] 20 ELRNZ 367 In some cases, there is a direct link between the wording used in policies to the status of activities, with avoid policies having a non-complying activity status on the basis that they are something in the nature of an environmental bottom line.

3.6.2 Matt Heale also stated:

> While there may be activities that the PDP has not anticipated that default to non-complying, this is appropriate as they would then be considered against the objectives and policies of the zone in which the activity is proposed, as required by the gateway test for the assessment of non-complying activities under section 104(d). This is consistent with current best practice as plans have been designed to be more directive and certain and respond to PS definitions and current caselaw such as King Salmon, Davidson and Port Otago.
>
> The non-complying activity status does not automatically mean resource consent would not be granted and in Port Otago the Court made it clear that avoid does not, in a purist sense, mean total avoidance. It considers that avoidance can be achieved either at the outset or through mitigation, remedying, assessment criteria, conditions and adaptive management that have been applied to reduce the harm so it is no longer material. It provides clear direction that the section 104(d) “gateway test” should be applied to determine the appropriateness of the activity.

3.6.3 Ben Wilson in presenting evidence on behalf of Clark Fortune McDonald & Associates at the hearings considering submissions to the Rural, Residential and Subdivision chapters commented on specific Plan provisions that in his view inappropriately applied non-complying status. In some cases, the Panel has amended rules so that non-compliance with standards in a controlled activity rule defaulted to discretionary status rather than non-complying. In the Residential Zone a stepped progression has been adopted, consistent with evidence of Ben Wilson, providing for a stepped progression from controlled to discretionary to non-complying in considering the size of new allotments being created. At a general level however, the Panel accepts the advice and logic underpinning the approach to rules in the Plan, and submissions S99.027 Clark Fortune McDonald & Associates and S147.026 New Zealand Defence Force are rejected.

3.7 Transpower Notes

Submitter (S)	Relief Sought
S101.023 Transpower New Zealand Limited	INFR: district plan must give effect to any National Policy Statement (NPS) and Section 44A of the RMA, directs local authorities to ensure that there are no duplications or conflicts between the provisions of a National Environmental Standard (NES) and a proposed plan ~~National Environmental Standard (NES)~~. NES's must be observed and enforced by local authorities. Section 43B of the RMA directs that a NES prevails over District Plan rules unless a NES expressly ~~stated~~ states that it does not. The National Policy Statement on Electricity Transmission 2008 must be given effect to in respect of District Plan provisions that recognise and provide for the National Grid; manage the effects of the National Grid and manage the effects of other activities on the National Grid. The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 include a suite of provisions that provide for the operation, maintenance and upgrading of existing transmission lines. These provisions prevail over any similar provisions in the District Plan.
S101.061 Transpower New Zealand Limited	NFL: mend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.
S101.078 Transpower New Zealand Limited	LLRZ: Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities."
S101.081 Transpower New Zealand Limited	GRZ: Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities."
S101.084 Transpower New Zealand Limited	GRUZ: mend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.
S101.087 Transpower New Zealand Limited	RLZ: Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.
S101.089 Transpower New Zealand Limited	GIZ: Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.
S101.091 Transpower New Zealand Limited	FDZ: Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Whilst temporary

Submitter (S)	Relief Sought
	events are provided for in this Chapter, the remaining Temporary Activities rule apply. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities." Amend Note 1 to include: "Rule INFR-R7 applies to activities and development near the National Grid.

3.7.1 The Panel received legal advice from Shelley Chadwick, Counsel for the Council, that the Notes in each chapter of the Plan preceding the Rules have no legal standing. As part of its decision to remove unnecessary duplication within the Plan the Panel has deleted these Notes because reliance can be placed on the introductory sections of the Plan. As noted in section 5.1 below, this is made as an amendment under Clause 16(2) of the First Schedule. Accordingly, submissions by Transpower seeking additions to the Notes are rejected.

4 Repeated Submissions

4.1 NZ Heavy Haulage Association

Submitter (S) Further Submitter (FS)	Relief Sought
S77.002, S77.003, S77.004, S77.005, S77.006, S77.007, S77.008, S77.009, S77.010, S77.011, S77.012, S77.013, S77.014, S77.015, S77.016, S77.017, S77.018 New Zealand Heavy Haulage Association	Additional provisions sought: LLRZ, GRZ, MRZ, GRUZ, RLZ, SETZ, NCZ, LCZ, MUZ, TCZ, LIZ, GIZ, SARZ, AIRPZ, MPZ, CCZ, FDZ Permitted activity performance standards and criteria for relocation of second hand buildings: a. Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling. b. A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the building. c. The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site. d. All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site. Without limiting (c) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations. e. The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the 12-month period. Restricted Discretionary activity status for relocated buildings that do not meet the permitted activity status standards. OR The inclusion of the words "new or relocated buildings" to the activity rules for residential activities/units. Reason: "Residential Activity and Residential Units" is provided for as a permitted activity where compliance with standards is achieved. However, standards within the PGDP only refer to buildings that are "new". The approach used is supported on the basis of the decision of Environment Court - New Zealand Heavy Haulage Association Inc v The Central Otago District Council.
FS14.024, FS14.039, FS14.040, FS14.041, FS14.042, FS14.043, FS14.044, FS14.045, FS14.046, FS14.047,	Disallow S77.002, S77.003, S77.004, S77.005, S77.006, S77.007, S77.008, S77.009, S77.010, S77.011, S77.012, S77.013, S77.014, S77.015, S77.016. S77.017, S77.018 New Zealand Heavy Haulage Association

Submitter (S) Further Submitter (FS)	Relief Sought
FS14.048, FS14.049, FS14.050, FS14.051, FS14.052, FS14.053 NZ Transport Agency Waka Kotahi	Relocated second-hand dwellings may be used for a noise sensitive activity. The permitted activity performance standards and criteria listed by NZHHA in its submission does not give any certainty that a relocated second-hand dwelling will be able to comply with the requirements of NOISE-S3, whereby that standard seeks to manage noise impacts on the noise sensitive activity. The New Zealand Transport Agency is concerned that the proposed provision by NZHHA would enable second hand dwellings, that do not have acoustic treatment that complies with NOISE-S3 requirements, to be relocated to within a proximity of the state highway network where noise sensitive activities undertaken within that dwelling would be adversely impacted by noise arising from the operation of the highway. We suggest that the performance standards proposed by NZHHA either include measures to ensure compliance with NOISE-S3, otherwise we consider that noise effects may not be appropriately managed. In its original submission, the New Zealand Transport Agency sought amendments to rule NOISE-R7 to expressly include relocated buildings used for noise sensitive activities to manage noise impacts on activities relocating to within a proximity of the road network where they could be adversely impacted by noise generated from the use of the existing state highway network.
FS28.063, FS28.070 Kainga Ora	Allow in part S77.003, S77.004 New Zealand Heavy Haulage Association Kāinga Ora supports the recognition of relocatable buildings as a permitted activity, however, considers that a more efficient change to include relocatable buildings is to amend the definition for Residential Activity and Residential Units to include relocatable buildings and all references to 'new' removed from the relevant rules.

Section 42A Reports

4.1.1 Reports received by the Panel to all hearings on the zones referred to in the NZHHA submissions provided consistent comment and assessment of the NZHHA submissions. This included the s42A Report by Victoria Woodbridge to HS2 Commercial Centres and by Joanne Skuse to HS3 Rural Zones and HS4 Residential Zones.

4.1.2 The s42A authors referred to rule TEMP-R8 that managed the process to be followed in relocating buildings onto a site and the timing of work to reinstate the building to an appropriate standard. Victoria Woodbridge at paragraph 117 of her s42A Report stated in relation to rule TEMP-R8:

> The performance standards include compliance with zoning standards relating to buildings, ensuring semblance of character and amenity from bulk and location of built form. The standard further requires a pre-inspection report to be submitted with any building consent application ensuring an appropriate level of scrutiny is undertaken by Council. The NZHHA submission to include a new activity for relocated buildings in each zone is essentially a duplication of the Temporary Activities rule. However, including the additional wording of “relocated” in each existing activity rule which permits buildings will improve the clarity and useability of the PDP.

4.1.3 Joanne Skuse in her s42A Report to HS3 Rural with regard to the further submissions stated:

> In relation to the NZTA further submission (FS14.051) just as with any new building for a sensitive activity in proximity to the state highway, standards detailed in the Noise chapter will also apply to relocatable buildings. If effective acoustic insulation cannot be installed, consent will be required pursuant to the performance standard in the Noise chapter. As such the further submission is rejected on the basis the submitters concerns are accommodated in the Noise chapter.

The intent of the further submission by Kainga Ora is achieved through the above recommendation, noting the definitions of 'residential unit' and 'residential activity' are both defined within the National Planning Standards.

Submitter Evidence

4.1.4 Jonathan Bhana-Thomson Chief Executive of the New Zealand Heavy Haulage Association Inc (NZHHA) provided written evidence to HS2 Commercial Centres and HS4 Residential Zones in which he stated the thrust of the submissions lodged to ensure relocated dwellings are treated on the same or similar basis as new in situ dwellings, subject to performance standards, including the requirement for a pre-inspection report, prior to relocation, which contains the necessary requirements to upgrade the relocated dwelling within a prescribed time period (12 months).

4.1.5 Jonathan Bhana-Thomson disagreed with the recommendation that the inclusion of a new standard is unnecessary. In NZHHA's submission, standards are necessary to enable Council to have a degree of control over relocated buildings. This is essential to ensuring that relocated buildings meet a certain level of quality. He also considered the rule in the Temporary Activities chapter was not appropriate because our view is that relocatable buildings will be a permanent addition to the site, so referring to them as temporary will lead to misinterpretation. While supporting the relocation of second-hand buildings (which are not heritage items) as a permitted activity in all zones where building activities are provided for as a permitted activity, he continued to seek more detailed performance standards and criteria in each zone. If that was not accepted then the default option, as recommended in the s42A Report, is the inclusion of the words "new or relocated buildings" to the activity rules for residential activities/units across all zones.

4.1.6 It is the view of NZHHA that the Council can retain a degree of control over relocated buildings through the use of permitted activity standards including a pre-inspection and reinstatement report noting some Councils have adopted that approach (for example, Hastings District and Queenstown Lakes District).

4.1.7 In further written evidence presented to HS4 Residential Zones Jonathan Bhana-Thomson stated the concern of NZHHA is that these "residential activity" rules only apply permitted activity status to "new" dwellings, and will not capture the majority of relocated buildings, which are second hand buildings. He agreed with the s 42A report author's recommendations that including the additional wording "relocated" will improve the clarity and useability of the PDP. I agree that each relevant zone rule across the residential and industrial zones be amended to provide for relocated as well as new buildings as a permitted activity subject to rule requirements.

Evidence from Further Submitters

4.1.8 Helen Depmpster in emails forwarded to the Panel advised of acceptance of the recommendations to the NZTA further submissions to HS2, HS3 and HS4. No communications were received from Kainga Ora.

Assessment

4.1.9 The Panel notes there is some confusion arising from rule TEMP-R8. The intent is to manage the preliminary steps to be taken prior to shifting a relocatable building on to a site in the Gore District, regardless of its end use. The Panel accepts the explanation provided in the s42A Reports that the temporary activity is the process of relocation and reinstatement for a structure that is intended to be permanently on a site. The rule refers to pre-inspection reports and reinstatement works and in that regard includes matters sought to be included in the Plan by NZHHA. The Panel considers there may be some overlap between the rule provisions and matters considered under the Building Act but

no advice was provided to the Panel on that issue. Further, as no submissions were lodged to the rule the Panel does not have scope to consider the matter further.

4.1.10 In terms of the NZHHA submissions, the key issue is whether to include standards in in each zone or, if needed, adopt a simplified approach in adding reference to "new or relocated buildings" to the activity rules for residential activities.

4.1.11 Given the content of rule TEMP-R8 the Panel concludes the additions sought in the submissions would be an unnecessary duplication. The Panel does have doubts that it is necessary to amend a multitude of rules to refer to "new or relocated buildings". However, for the avoidance of doubt, it accepts the advice of Victoria Woodbridge and Joanne Skuse to make that change.

4.1.12 The Panel also agrees with the advice of the s42 Report authors with regard to the further submissions lodged.

4.1.13 Accordingly, the various submissions by New Zealand Heavy Haulage Association are accepted, together with any consequential changes required by adding reference to "new or relocated buildings" in the activity rules for residential activities throughout the Plan. For convenience, changes are shown in green without footnotes.

4.2 Royal Forest and Bird Society of NZ Inc

Setbacks from SNAs

Submitter (S) Further Submitter (FS)	Relief Sought
S110.049 (GRUZ), S110.051 (RLZ), S110.081 (AIRPZ), S110.070 (SARZ), S110.078 (NOSZ), S110.065 (GIZ), S110.058 (LIZ), S110.019 (INFR) Royal Forest and Bird Society of NZ Inc	Additional Standard sought Setbacks from a Significant Natural Area (all activities) Permitted activity 1. Any building or structure is set back 10 metres from the closest boundary of any Significant Natural Area Activity status where compliance is not achieved: Restricted Discretionary Matters of discretion: 1. Effects on Significant Natural Area values and indigenous biodiversity values. 2. Impact of the activity on any rare or threatened indigenous species or taonga species and how any potential impact could be avoided remedied or mitigated. 3. The activity has a functional need to be located in the area.
FS25.135 Stoney Creek Station Ltd	*Disallow S110.049 Royal Forest and Bird Society of NZ Inc*
FS17.087,FS17.090 Federated Farmers	*Disallow S110.049, S110.051 Forest and Bird Society of NZ Inc. Under the PDP, the definition of 'fence' 'means any structure'. It is not reasonable for farmers to apply for resource consent if they wish to fence off a SNA at less than 10m from the SNA. Fencing SNAs provide many positive benefits for protecting the SNA.*
FS31.021 Department of Conservation	Supports S110.070 Royal Forest and Bird Society of NZ Inc
FS5.166, FS5.190, FS5.182, FS5.176 Hamish Weir	*Reject Submissions S110.049 , S110.078, S110.065, S110.058 Royal Forest and Bird Society of NZ Inc*
FS30.069 Transpower NZ Ltd *FS21.066 Yrless Ltd* *FS24.023 Contact Energy Ltd*	*S110.019 Royal Forest and Bird Society of NZ Inc*

4.2.1 While there are currently only two SNAs shown the PDP and both are on public land with the SNA boundaries following legal title boundaries. SNA1 comprises Dolamore Park and Croydon Bush Reserve being zoned Natural Open Space, with the adjoining land

zoned General Rural and Rural Lifestyle. SNA2 is the Pukerau Red Tussock Reserve. It is zoned General Rural and is surrounded by land with the same zoning.

4.2.2 The Natural Open Space Zone applies to land classified as Reserve. Dolamore Park contains bush walks, play equipment, toilets, open areas for picnics and active recreation and camping. The ancillary buildings on the site (toilets and shows) are situated within areas of indigenous vegetation to minimise their visual impact. The Panel considers this appropriate and any separation from indigenous vegetation is not practical or necessary.

4.2.3 Within the General Rural Zone buildings of less than 10m^2 are required to be setback 2 metres from side and rear boundaries, while other buildings must be setback between 15 to 50 metres. Within the Rural Lifestyle Zone the minimum setback varies from 10 to 30 metres. In most instances therefore the setback standards exceed those requested by Forest and Bird.

4.2.4 The Panel accepts that in the future, additional SNAs could be included in the Plan and they may adjoin other zones. Of those referred to in the submissions:

- The Airport Zone is surrounded by developed grassland. The likelihood of SNAs on adjoining land is remote. A minimum boundary setback of 6 metres apply.
- The Sport and Active Recreation Zone is urban based. Again, the likelihood of SNAs on adjoining land is remote. A minimum boundary setback of 5 metres apply.
- Where the Light Industrial Zone adjoins the General Rural Zone a 2 metre setback is required, and for the General Industrial Zone the setback is 5m, although in both zone a height plane setback is also in force. However, all of the sites zoned General Industrial or Light Industrial in the PDP adjoin areas of developed farm land.

4.2.5 It is therefore only in the General Rural Zone where buildings can locate close to the boundary of a SNA, and they must be less then 10m^2 in area. The Panel does not consider this gives rise to an issue that justifies a regulatory response. In addition, the Panel has concerns with introducing rules that if not complied with requires an assessment of the ecological impacts on vegetation on adjoining land. The Panel agrees with the comment of Joanne Skuse in her s42A Report to HS3 Rural Zones at paragraph 219 as follows:

> I think it would be unreasonable for Plan users to be required to obtain an ecological assessment identifying an SNA that may potentially lie on a neighbouring site, in order to confirm compliance with the proposed standard. I do not consider this to be efficient or effective for Plan users or decision makers. Regardless, any building or structure must adhere to the proposed setbacks within the rural zone which is proportionate to the building and or activity scale, therefore any SNA on neighbouring sites would be afforded some protection on this basis.

4.2.6 Accordingly, the submissions of Royal Forest and Bird Society of NZ Inc as listed above are rejected.

Ecological Corridors

Submitter (S) Further Submitter (FS)	Relief Sought
S110.059 (GIZ-P4) S110.052 (LIZ-P3) Royal Forest and Bird Society of NZ Inc	Add to Policies: Matters of discretion 3. Cause adverse effects on indigenous biodiversity or ecological corridors.
S110.060, S110.061, S110.062, S110.063, S110.064 Royal Forest and Bird Society of NZ Inc	GIZ-R1 – R5 Add: 3. There is no more than minor adverse effects on indigenous biodiversity or ecological corridors.
FS5.177, FS5.178, FS5.179, FS5.180, FS5.181 Hamish Weir FS29.058, FS29.060, FS29.061, FS29.062, FS29.063 Silver Fern Farms Ltd	*Disallow S110.060, S110.061, S110.062, S110.063, S110.064 Royal Forest and Bird Society of NZ Inc*
S110.053, S110.054, S110.055, S110.056, S110.057 Royal Forest and Bird Society of NZ Inc	LIZ-R10 – R14 Add: the extent and scale of adverse effects on indigenous biodiversity or ecological corridors.

4.2.7 Forest and Bird lodged a number of submissions seeking reference the effects of subdivision, use and development on "ecological; corridors" as a matter of consideration in policies and an assessment matter in determining consents. This was reinforced by Chelsea McGaw in her oral presentation at the hearing stating the Council should adopt a holistic approach and look at ecological values on the land and adjoining areas with a view of retaining vegetation to retain ecological pathways and not fragment habitat.

4.2.8 In some cases (Natural Open Space Zone, Active Recreation and Sport Zone, Development Areas) regard was given to the Forest and Bird submission points at those hearings. In other cases, including as set out above, the s42A authors recommended deferring consideration until the Ecosystems and Indigenous Biodiversity hearing.

4.2.9 The Panel accepts that the role of ecological corridors is poorly understood particularly within an area such as the Gore District where much of the original indigenous vegetation has been converted to farmland. As a consequence, ecological corridors have tended to be replaced by islands, with avifauna moving from one island to another. Both Matt Heale and Andrew Wells agreed additional reference to ecological values may be appropriate, probably in the subdivision chapter.

4.2.10 As noted in paragraph 7.2.2 above there is very little factual information available related to ecological corridors within the Gore District and the Panel is unable to justify the inclusion of rules protecting ecological corridors. However, the Panel accepts that it is appropriate to encourage ecological corridors and to have regard to the ecological values that assist in providing corridors when assessing subdivision consents. Examples where this has been done through decisions of the Panel include:

(a) At paragraph 10.8.7 above revising policy ECO-P7 as follows:

ECO-P~~7~~3 Protect, enhance and restore indigenous biodiversity by:

1. minimising the loss, fragmentation and reduction of:
   - ~~(a) Significant Natural Areas~~
   - (~~b~~a) connections between ~~*Significant Natural Areas*~~ areas of indigenous vegetation and habitats of indigenous fauna; ~~and~~
   - (~~c~~b) ~~threatened or at-risk and~~ indigenous species populations; and
   - (c) the mauri of indigenous ecosystems.
2. promoting the creation of connections and ecological corridors between ~~Significant Natural Areas~~ areas of indigenous vegetation and habitats of indigenous fauna;

(b) Amending Policy SUB-P3 (in response to submission S110.039 Royal Forest and Bird Society of NZ Inc):

Adopt appropriate subdivision design to protect and enhance natural features and landscapes, ~~vegetation and~~ ecosystems and indigenous *biodiversity*. ~~that are of a sufficient value that they should be retained.~~

(c) Adding to Matters of Discretion in rules in the Subdivision chapter:

Adverse effects on the characteristics and values of the feature, including considerations of visual impact, natural character, and ecological integrity.

4.2.11 The Panel considers the changes made to these provisions will assist in encouraging creation of ecological corridors and retaining the values of any locations where they are already present. In that regard, the various submissions of Royal Forest and Bird Society of NZ Inc are accepted in part.

4.3 Fire and Emergency New Zealand

Services and SNZ PAS 4509:2008

Submitter (S) Further Submitter (FS)	Relief Sought
S124.048, LLRZ-S2; S124.068, GRZ S124.099, MRZ; S124.116, GRUZ S124.128, RLZ; S124.139, SETZ S124.161, NCZ; S124.182, LCZ S124.202, MUZ; S124.225, TCZ S124.246, LIZ; S124.261, GIZ S124.262, NOSZ; S124.263, SARZ S124.275, AIRPZ; S124.291, MPZ S124.300, CCZ; S124.311, FDZ S124.317, DEV; S124.316,DEV2 In excess of 200 submissions were also lodged to rules referred to in chapters above seeking reference to the new standard sought in each chapter	Amend as follows: 1. Where available any residential unit and buildings for non-residential activities shall be connected to a Council reticulated water supply. 2. Where available any residential unit and buildings for non-residential activities shall be connected to a Council reticulated wastewater network. 3. Where Council reticulated water supply is unavailable, any residential unit and buildings for non-residential activities must: (a) be connected to a community drinking water supply; or (b) be connected to a private drinking water supply; or (c) store 45,000 litres of potable water on-site from another source. 4. Where Council reticulated wastewater is unavailable, any residential unit and buildings for non-residential activities must: (a) be provided with an on-site wastewater treatment and disposal system. 5. All developments must have an independent water supply for firefighting that is compliant with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice'. Fire and Emergency support the provision for residential units and buildings to either be connected to a council reticulated water supply or if a water supply is unavailable, buildings and units must be connected to private drinking water supply or store 45,000l litres of potable water on-site from another source. However, Fire and Emergency seek that provision within the servicing standard is given to firefighting water supply in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008
FS20.017, FS20.014, FS20.046, FS20.048, FS20.049, FS20.050, FS20.051, FS20.052, FS20.053, FS20.015 Hokonui Rūnanga Inc	A blanket rule is not appropriate. Support changes to rules in part but note that not all MPZ will have buildings.
S124.027, SUB-R1; S124.028, SUB-R5; S124.029, SUB-R6 S124.030, SUB-R7 Fire and Emergency NZ	Amend as follows: 9. Provision for servicing, including water supply, firefighting water supply in accordance with SNZ PAS 4509:2008, wastewater treatment and disposal, stormwater design and disposal, electricity and telecommunications. Fire and Emergency support the requirement to have the provision for servicing including firefighting water supply. However, Fire and Emergency seek that specific firefighting water supply is provided for in accordance with the New

Submitter (S) Further Submitter (FS)	Relief Sought
	Zealand Fire Service Firefighting Water Supplies Code of Practice - SNZ PAS 4508:2008.
FS5.89, FS5.100, FS5.107 Hamish Weir	Opposes S124.027, S124.028, S124.030 Specific standards that could out date should not be included

4.3.1 In considering these submissions the Panel is mindful of the content of the response received from Louisa Armstrong on behalf of FENZ where she stated:

> For clarity, Fire and Emergency interest is the provision of fire fighting water supply being in accordance with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice, and not with the provision (or not) and connection to Council reticulated wastewater network.

Commercial Zones Hearing

4.3.2 Tina Carlson-McColl and Victoria Woodbridge in their s42A Report to the Commercial Zones hearing stated at paragraphs 73 - 74:

> It is acknowledged that providing a standard for firefighting supply is a conscientious response to development, and there is currently no firefighting standard in the PDP. Moreover, the building code requirements are limited in this aspect. There is however a firefighting provision within the Subdivision and Land Development Bylaw 2019 (Amendment No 1, 2021) which references part of the FENZ Code of Practice. The bylaw provision can continue to be relied on, although monitoring and enforcement issues have generally been identified with the bylaw, or incorporated into the PDP as an alternative to the FENZ submission. However, including the entirety of the SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice as proposed by the submitter raises concerns in relation to the useability of the plan and the determining of compliance by Council officers due to the complexity and technical nature of the FENZ Code of Practice.
>
> The submitter may consider providing a standard which includes the key components of SNZ PAS 4509:2008 which could be a more effective means of managing firefighting water supply through the PDP than simply referring to the FENZ Code of Practice. Any additional evidence provided by the submitter to justify inclusion of a new standard for firefighting water should be supported by a Section 32AA evaluation.

4.3.3 FENZ did not attend the hearing and in order to consider the FENZ submissions appropriately, as part of Minute 11 issued on 26 June 2024 the Panel sought additional information from FENZ with regard to the rationale of on-site storage of 45,000 litres, given the size and capacity of water tanks for sale from retail stores.

4.3.4 Relevant extracts from the reply by Louisa Armstrong on behalf of FENZ to the Minute stated:

> Fire and Emergency considers that new buildings should be required to provide a firefighting water supply in accordance with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice in order to manage fire risk. The proposed wording of the new standards was in accordance with other servicing standards within the Proposed Gore District Plan for example LLRZ-S2. … The proposed wording sought by FENZ was to ensure the wording of the sought standard was consistent with the wording found elsewhere in the plan.
>
> With respect to the rationale of on-site storage of 45,000 litres, similar to the above, this wording sought to ensure consistency with the wording found elsewhere in the plan. Fire and Emergency seeks that developments have an independent water supply for water supply for firefighting that is compliant with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

Other Hearings

4.3.5 Section 42A Reports generally repeated the comments from the s42A Report to the Commercial zones hearing. Joanne Skuse in her s42A Report to the Rural Zones hearing also added:

> I consider, including the entirety of the SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice as proposed by the submitter raises concerns in relation to the useability of the plan and the determining of compliance by Council officers due to the complexity and technical nature of the Code of Practice. It is therefore not considered to be efficient or effective for Plan users and decision makers to include a standard or rule in the PDP which requires compliance with detailed external document, such as SNZ PAS 4509:2008.

4.3.6 In response to FENZ seeking an addition of a standard applying to rules in the Subdivision chapter Joanne Skuse in her s42A Report advised that the inclusion of a matter of discretion referring to "the provision, design and construction of infrastructure and services" was sufficient to meet the concerns of FENZ.

4.3.7 In a letter received by the Panel dated 10 October 2024, Kate Oranje on behalf of FENZ responded to the s42A Subdivision Report as follows:

> Fire and Emergency wish to reiterate their original submission point and considers that a matter of control in line with the SNZ PAS 4509:2008 standards means that there is assurance that the planner assessing the application will do so in line with the code of practice. Fire and Emergency consider that not specifying the code of practice will leave room for error and outcomes that could hinder Fire and Emergency responding to events in the best practicable way.

Panel Consideration

4.3.8 The Panel notes that within urban zones and Development Areas reticulated water supply either is available or will be provided as part of development. As a consequence, provision for firefighting purposes is not required. Within other zones, the Panel anticipates a number of problems arising from the inclusion of the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS4509:2008) in the District Plan. It is a complex and technical standard and contains a number of discretionary matters, meaning determining compliance would be problematic. Authors of the s42A Reports suggested FENZ provide more detail of what could be provided in the Plan, rather than a general reference to the Code of Practice. The Panel notes no options were presented for consideration.

4.3.9 In addition, there is no single requirement as to what is to be provided on site. The requirements in the Standard vary depending on building size and whether internal sprinklers are installed. More importantly, the Panel considers any provisions included in the District Plan would unnecessarily duplicate requirements of the Building Code and the Council's Subdivision and Development Bylaw.

4.3.10 The Panel is aware that in 2021, with input from FENZ, the Bylaw was amended to reflect the minimum standards in SNZ PAS4509:2008. No evidence was provided to the Panel as to whether Councils that have provisions in bylaws or codes of practice also have rules in their district plan. In the Panels view it is unnecessary.

4.3.11 It is also the Panel's view that subdivision does not trigger the need for provision for potable water supply or provision for firefighting and that is better considered as part of the building consent phase.

4.3.12 Having regard to the matters above, the submissions of Fire and Emergency NZ seeking inclusion of reference to the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS4509:2008) in the District Plan are rejected.

Status of Emergency Services Facility

Submitter (S) Further Submitter (FS)	Relief Sought
S124.067, GRZ-R13; S124.088, MRZ-R13 S124.112, GRUZ-R19; S124.124, RLZ-R12 S124.156, NCZ-R12; S124.178, LCZ-R16 S124.220, TCZ-R16; S124.298, CCZ-R7 S124.318, LLRZ-RX; S124.047, LLRZ-R9 Fire and Emergency NZ	Emergency service facilities should be provided for as a permitted activity which will be subject to the performance standards.

4.3.13 The Panel notes the notified Plan provided for Emergency Service Facilities as follows:

Status of Emergency Service Facilities	
Zone	Status
Mixed Use Zone Light Industrial Zone Industrial Zone Airport Zone Māori Purpose Zone Settlement Zone	Permitted
General Residential Zone Medium Residential Zone Neighbourhood Centre Zone	Restricted Discretionary
Rural Lifestyle Local Centre Zone Town Centre Zone Field Days Zone	Discretionary
Other Zones	Non-Complying

4.3.14 Tina Carlson-McColl and Victoria Woodbridge in their s42A Report to the Commercial Zones hearing stated at paragraphs 77 and 78:

> In response to the FENZ submission points listed in Table 3 to provide for emergency services facilities as permitted activities in the Commercial Centre Zones and more enabling objectives and policies in relation to these, we acknowledge the importance of emergency services facilities to the health, safety and wellbeing of people and the community. Although we agree with FENZ that emergency services facilities service the community, the objectives and policies of the Commercial Centre Zones do not specifically list all community activities and facilities that fulfil that function. However, although emergency service facilities are not specifically addressed in the objectives and policies, they are specifically provided for in the Commercial Centre Zones activity rules …
>
> Emergency Services Facilities are managed in the PDP Commercial Centre Zones rather than permitted as the nature and scale of all Emergency Services Facilities may not be appropriate in all locations, and in some instances may not be compatible with the character and amenity of the centre, or surrounding area. The discretionary or restricted discretionary activity status and the policy framework provides direction for where and when Emergency Service Facilities may be appropriate, and potential effects can be managed. FENZ have provided no details or alternatives to demonstrate how the effects of Emergency Services Facilities are proposed to be managed if not managed through a resource consent process, and at this time we consider that the evidence provided in the submission does not warrant an amendment to the notified PDP.

4.3.15 Where s42A Reports considered similar provisions the responses given were worded similarly to the above. The Panel notes that no specific evidence of other comment was received from FENZ in relation to this issue.

4.3.16 The Panel agrees with the assessment provided in the s42A Report for the Commercial Zones, in particular that the status of activities within each zone has been determined on the basis of the amenity of the zone and the compatibility of activities with that setting. The Panel agrees that the status given to Emergency Service Facilities in the notified Plan is appropriate and accordingly, the submissions of Fire and Emergency NZ seeking inclusion Emergency Service Facilities within various zones in the District Plan are rejected.

Exemption from Standards

Submitter (S) Further Submitter (FS)	Relief Sought
S124.069, GRZ-S3 S124.095, MRZ-S2 S124.115, GRUZ-S8 S124.125, RLZ-S2 S124.140, SETZ-S3 S124.158, NCZ-S3 S124.180, LCZ-S4 S124.197, MUZ-S1 S124.223, TCZ-S4 S124.240, LIZ-S1 S124.273, AIRPZ-S2 S124.287, MPZ-S1 S124.299, CCZ-S1	Amend as follows: Excluding emergency service facilities. Fire stations are typically single storied buildings of approximately 8-9m in height and are usually able to comply with the height standards in a district plan. However, as part of Fire and Emergency fire station operational requirements many stations include a multipurpose tower or pole between 12-15m in height. Fire and Emergency towers are typically either lattice towers that can support a siren, aerials and hose drying or are platform towers that can support all the above plus be used for firefighter training. Similarly, poles can support sirens, aerials and hose drying activities. Examples of these structures are attached as Appendix B. The frequency of towers or poles being required at stations is generally dependent on locational and operational requirements of each station. Some existing fire station sites across the country have aerial and sirens mounted on the roof of the building which is not ideal, and Fire and Emergency are slowly rectifying this with the construction of towers and poles. Ideally all stations would have a tower or structure. Fire and Emergency therefore seek an exemption from the height standard for emergency service facilities which encompasses communication towers and poles.
S124.050 LLRZ-S4 S124.070 GRZ-S4 S124.096 MRZ-S3 S124.141 SETZ-S4 S124.157 NCZ-S2 S124.179 LCZ-S3 S124.288 MPZ-S2 S124.198 MUZ-S2 S124.012 INFR-S3	Amend as follows: Except that: This standard does not apply to communication towers and poles for emergency service facilities. Fire and Emergency seeks an exemption for communication towers and poles regarding height in relation to boundary standards.
S124.114 GRUZ-S5 S124.126 RLZ-S4 S124.289 MPZ-S4 S124.320 FDZ-S3	Amend as follows: Except that Emergency service facilities are exempt from this rule. Fire and Emergency request that emergency service facilities (as proposed) are excluded from the minimum setback from road boundary rule. Where are setback is greater than 8-10m, this will result in increased civil costs, land parcel size and can create fire separation issue at rear boundaries The exclusion would support the logistical and operational requirements of Fire and Emergency
S124.113 GRUZ-S2 S124.127 RLZ-S6 S124.290 MPZ-S6 S124.310 FDZ-S2	Amend Except that emergency service facilities are exempt from this rule. Fire and Emergency note that the minimum building coverage for a volunteer fire station is 250m^2 and up to 1500m^2 for a career fire station. Fire and Emergency are concerned that 1.5% building coverage for per site would not provide for emergency service facilities should they need to construct a new fire station in the GRUZ in future. Typically, Fire and Emergency purchase land from 2000m2 to 4000m2 to facilitate the construction and operation of new emergency service facilities. Therefore 1.5% building coverage on a 2000m2 site would provide for 30m2 of building coverage. This would not facilitate a volunteer fire station or a career fire station and would limit their ability to expand in future. It is

Submitter (S) Further Submitter (FS)	Relief Sought
	requested that this rule is amended for emergency services facilities in the GRUZ.
S124.160 NCZ-S10	Amend as follows: Note: Emergency service facilities are exempt from this rule Emergency service facilities operate 24 hours a day. As such the restriction pertaining to hours of operation is not suitable for emergency service facilities. Fire and Emergency therefore seek and exemption for emergency service facilities to provide for the logistical and operational requirements for Fire and Emergency.

4.3.17 The Panel notes the notified Plan provided for the following height limits in chapters as follows:

Zone	Setback from Boundary S&R = Side and Rear HIRTB = Height in relation to Boundary	Maximum Height	Site Coverage
Natural Open Space	S&R: 25m Road: 10m	6m	2.5%
Settlement	S&R: 4m or 2m for accessory building Road: 6m HIRTB: 2.6m plus angle	8m	35%
Sport and Active Recreation	S&R: 10m or 5m Road: 4.5m HIRTB: 2.6m plus angle	8m	2%
General Residential	S&R: 1m Road: 3m HIRTB: 2.6m plus angle	8m	45%, 50%
Medium Residential	S&R: 1m Road: 2.5m HIRTB: 3m plus angle	8m	50%, 60%
Large Lot Residential	S&R: 4m Road: 6m HIRTB: 2.6m plus angle	8m	35%
Settlement Zone	S&R: 4m Road: 6m HIRTB: 2.6m plus angle	8m	35%
Rural Lifestyle	S&R: 10m Road: 10m, 30m, 40m	8m	1,000m^2
Neighbourhood Centre	S&R: 1m, 3m Road: 0 HIRTB: 2.6m plus angle	8m	N/A
Sport and Active Recreation	S&R: 5m, 10m Road: 4.5 HIRTB: 2.6m plus angle	8m	N/A
Māori Purpose	S&R: 1m, 10m Road: 10m HIRTB: 2.6m plus angle	8m	50%
Local Centre	S&R: 2m Road: 0 HIRTB: 3m plus angle	9m	N/A
Mixed Use	S&R: 1.5m Road: 2m HIRTB: 3m plus angle	10m	N/A
Camp Columba	S&R: 0 Road: 0 Development Plan applies	10m	N/A

Zone	Setback from Boundary S&R = Side and Rear HIRTB = Height in relation to Boundary	Maximum Height	Site Coverage
General Rural	S&R: 15m or 2m if less than 10m^2 Road: 15m	12m	1.5%
Light Industrial	S&R: 2m, 10m Road: 2m	12m	10% land-scaping
Town Centre	S&R: 2m Road: 0 HIRTB: 3m plus angle	12m	N/A
Airport	S&R: 6m Road: 6m	12m	N/A
Field Days	S&R: 15m Road: 40m	12m	5%
General Industrial	S&R: 5m Road: HIRTB: 2.6m plus angle	15m	10% land-scaping

4.3.18 The Panel also notes that the following provisions apply in the Infrastructure chapter:

Infrastructure: Utility Poles and Masts	Height Limit
Rural, Rural Lifestyle, General Industrial and Light Industrial Zones	25 metres
Other Zones	13 metres

4.3.19 The submissions lodged seeks exemption from zone hight and setback rules (side, rear and road), including height in relation to boundary rules. An exemption is also sought from building coverage rules and hours of operation.

4.3.20 Relevant portions of the s42A Report to the Commercial Zones hearing by Tina Carlson-McColl and Victoria Woodbridge at paragraphs 79 - 81 stated:

> In response to FENZ submission points listed in table 4 in relation to exemptions for towers and poles associated with emergency service facilities I acknowledge the operational value of towers and poles. However, although FENZ have provided an image of a tower at a facility in Taupo in Appendix B of their submission there is not really any clear indication of what a 'tower' might constitute. A pole would typically be slimline and potentially therefore have limited adverse effects on adjoining landowners despite an increased height, however, a tower may be a larger structure and it may therefore be appropriate to manage this structure through a resource consent process.
>
> The zones have the following height limits and the FENZ submission seeks that proposed towers and / or poles would be between 12-15 metres in height. … All standards above provide a general exemption for roof mounted structures, up to 1m above the permitted height for antennas or aerials, that would apply to communications infrastructure for emergency services facilities.
>
> As detailed in the Commercial Centre Zones and Mixed Use Zone Section 32 Evaluation Reports, the above heights were determined following consideration of existing development within the zone areas, the anticipated character and built form of the zone based on the range of activities enabled, and the potential adverse effects on landowners within the zone and within adjoining zones.

4.3.21 In an email received by the Panel dated 10 October 2024, Louisa Armstrong on behalf of FENZ responded to the s42A Report as follows:

> Finally, in terms of the type and size of towers and poles, some stations have multi purpose towers or poles between 12 to 15 minutes in height. Fire and Emergency towers are typically either lattice towers that can support a siren, aerials and hose drying or are platform towers that can support all the above plus be used for firefighter training. Similarly, poles can support sirens, aerials and hose drying activities.

4.3.22 In her s42A Report to the Residential Zones hearing Joanne Skuse stated at paragraphs 192 and 193:

> I acknowledge the operational value of towers and poles. However, although FENZ have provided an image of a tower at a facility in Taupo in Appendix B of their submission, there is no clear indication of what a 'tower' might constitute. A pole would typically be slimline and therefore potentially have limited adverse effects despite an increased height. However, a tower may be a larger structure and it may therefore be appropriate to manage this structure through a resource consent process. Without further information about the proposed tower or poles and potential mitigation of adverse effects, such as boundary setbacks and maximum footprints, I do not consider it is appropriate to simply exempt these structures from the height limit or the height in relation to boundary requirements. I consider visual effects on persons residing in the area should be considered.
>
> In relation to building coverage, retirement villages and comprehensive unit developments are typically developments which contain multiple small buildings on a site as opposed to one large building. In this regard, effects are of a lesser degree. These standards are representative of the anticipated character and built form of the zone based on the activities enabled, and the potential adverse effects on landowners within the zone and within adjoining zones. I do not consider a greater permitted maximum building coverage is necessary for emergency service facilities.

4.3.23 In her s42A Report to the Industrial Zones hearing Victoria Woodbridge stated at paragraphs 464 - 468:

> In response to the submission from FENZ (s124.240 & s124.241) in relation to exemptions for towers and poles associated with emergency service facilities I acknowledge the operational value of towers and poles. However, although FENZ have provided an image of a tower at a facility in Taupo in Appendix B of their submission there is not really any clear indication of what a 'tower' might constitute. A pole would typically be slimline and potentially therefore have limited adverse effects on adjoining landowners despite an increased height, however, a tower may be a larger structure and it may therefore be appropriate to manage this structure through a resource consent process.
>
> The LIZ has a height limit of 12 metres (LIZ-S1) and the FENZ submission seeks that proposed towers and / or poles would be between 12-15 metres in height which, at the lower end is consistent with the height limit and at the height end would exceed the height limit by 3 metres. Although, the standard does provide a general exemption for roof mounted structures, up to 1m above the permitted height for antennas or aerials, that would apply to communications infrastructure for emergency services facilities.
>
> As detailed in the Industrial Zones Section 32 Evaluation Reports, a height of 12 metres was determined following consideration of existing development within the zone areas, the anticipated character and built form of the zone based on the range of activities enabled, and the potential adverse effects on landowners within the zone and within adjoining zones.
>
> The LIZ Chapter includes a standard for height in relation to boundary (LIZ-S2) which further seeks to manage the effects of built form on adjoining sites within the Residential or Māori Purpose Zones. The standard requires that no part of any building or structure projects beyond the height in relation to boundary plane measured from points 2.6 metres above ground level at a site boundary with a residential zone or contains a scheduled heritage item.
>
> Without further information about the proposed tower or poles and potential mitigation of adverse effects, such as boundary setbacks and maximum footprints, I do not consider it is appropriate to simply exempt these structures from the height limit or the height in relation to boundary requirement because such an exemption could result in adverse effects on adjoining landowners. FENZ could seek a restricted discretionary resource consent for any height breach, and the non-compliance would be assessed on its merits.

4.3.24 Section 42A Reports to other hearings generally repeated matters referred to above.

4.3.25 In a letter received by the Panel dated 10 October 2024, Kate Oranje on behalf of FENZ responded to the s42A Subdivision Report as follows:

> Fire and Emergency supported in part INFR-S3 Height of Poles and Masts but requested an amendment to exclude poles and masts used for emergency service facilities. The reporting officer rejected the submission on the basis that the definition of a pole in the NESTF includes lattice towers which could result in adverse effects above and beyond what would be considered appropriate as a permitted activity.
>
> Fire and Emergency acknowledge the reporting officer's reasoning, however, Fire and Emergency still have outstanding concerns as any new emergency service facilities developed in the future would not be exempt from the height of poles and towers that is required for operations. Fire and Emergency towers are typically lattice or platform designs. Lattice towers support sirens, aerials, and hose drying, while platform towers also accommodate firefighter training. The need for towers or poles at stations depends on each station's specific locational and operational requirements. The height exemptions are important to Fire and Emergency to appropriately provide for the health and safety of the community by enabling efficient functioning of Fire and Emergency in establish and operating fire stations and associated structures. Given this, Fire and Emergency wish to reiterate the importance of their original submission.

4.3.26 In reply to the letter from Kate Oranje on behalf of FENZ, Mishka Banhidi in a statement of evidence stated at paragraph 164:

> I recommend rejecting FENZ's proposed relief. The example images provided do not appear to support their request. The Taupō example, in particular, illustrates a situation which should not be encouraged as a permitted activity. As outlined by Ms Oranje, this requirement would apply in relatively few cases, meaning the process of obtaining resource consent should be a manageable obligation. I agree that the effects are largely anticipated, specifically visual; intrusion, dominance and adverse amenity effects, and would need site specific analysis to determine suitability. I disagree with the comparison to TV aerials and chimneys; the Taupo example clearly exceeds the scale of these structures.

4.3.27 The Panel has set out in detail above the content of the advice it received and the information submitted on behalf of FENZ. There are two factors the Panel considers important with regard to these submissions:

(i) As noted in the submissions lodged and the information received:

(a) Not all sites developed for fire station purposes will require an exemption, with the needs of FENZ being dependent on a site by site case. As stated by Kate Oranje "the need for towers or poles at stations depends on each station's specific locational and operational requirements".

(b) The size and nature of some of the examples provided of fire station sites, particularly that at Taupo, show towers that are likely to be out of scale and incompatible with the amenity of the surrounding area.

(ii) As noted by Tina Carlson-McColl and Victoria Woodbridge the standards applying to each zone have been "determined following consideration of existing development within the zone areas, the anticipated character and built form of the zone based on the range of activities enabled, and the potential adverse effects on landowners within the zone and within adjoining zones". This was apparent to the Panel in reviewing the standards applying in each zone as set out in the table in paragraph 4.3.17 above.

4.3.28 In the Panel's view, it is not appropriate to grant an unfettered exemption to district plan rules and standards for fire station activities that may or may not be required. If FENZ considers exemptions are necessary for the efficient and effective operation of a fire station then the Panel considers that should be assessed by way of the resource consent

process taking into account the circumstances and impacts on the surrounding area. The Panel considers this particularly important given the scale of some of the structures in other fire station sites.

4.3.29 The Panel also notes that the Gore District is a slow growth area. There was no indication from FENZ that additional fire stations will be required in the District in the foreseeable future.

4.3.30 Submission 124.012 refers to standard INFR-S3 and FENZ seeks "poles and masts used for emergency service facilities, are exempt from this rule". However, in the Panel's view that provision does not apply to structures utilised by FENZ. The provision is in the Infrastructure chapter. Infrastructure is defined in the Plan and adopts the same definition as the RMA. Fire stations or other FENZ structures are not part of that definition, hence the provisions of the Infrastructure chapter do not apply to FENZ poles or masts. If the Panel is incorrect in that view, then the assessment above is adopted with regard to this provision.

4.3.31 Having regard to all of the matters above, the submissions of FENZ seeking exemption from various District Plan standards are rejected.

4.4 KiwiRail

Setback from Rail Corridor

KiwiRail Ltd Submissions: 5m Setback
S132.109, LLRZ-R3; S132.117, GRZ-R1; S132.118, GRZ-R2; S132.120, GRZ-S5; S132.123, MRZ-R1; S132.124, MRZ-R2; S132.125, MRZ-R3; S132.126, MRZ-R4; S132.127, MRZ-R5; S132.128, MRZ-R6; S132.129, MRZ-R8; S132.130, MRZ-R9; S132.131, MRZ-R10; S132.132, MRZ-R11; S132.133, MRZ-R12; S132.134, MRZ-R13; S132.136, GRUZ-O2; S132.140, GRUZ-R1; S132.141, GRUZ-R2; S132.142, GRUZ-R3; S132.143, GRUZ-R4; S132.144, GRUZ-R8; S132.145, GRUZ-R9; S132.146, GRUZ-R10; S132.147, GRUZ-R13; S132.148, GRUZ-R14; S132.149, GRUZ-S4; S132.152, RLZ-R2; S132.153, RLZ-R4; S132.154, RLZ-R5; S132.155, RLZ-R8; S132.156, RLZ-R9; S132.157, RLZ-S4; S132.159, SETZ-P2; S132.162, SETZ-R1; S132.163, SETZ-R9; S132.164, SETZ-R2; S132.165, SETZ-R4; S132.166, SETZ-R6; S132.167, SETZ-R7; S132.168, SETZ-R10; S132.169, SETZ-S5; S132.171, NCZ-R1; S132.172, NCZ-R2; S132.173, NCZ-R3; S132.174, NCZ-R4; S132.175, NCZ-R5; S132.176, NCZ-R6; S132.177, NCZ-R7; S132.178, NCZ-R8; S132.179, NCZ-R9; S132.180, NCZ-S4; S132.183, LCZ-R1; S132.184, LCZ-R2; S132.185, LCZ-R3; S132.186, LCZ-R4; S132.187, LCZ-R5; S132.188, LCZ-R6; S132.189, LCZ-R7; S132.190, LCZ-R8; S132.191, LCZ-R9; S132.192, LCZ-R11; S132.193, LCZ-R13; S132.194, LCZ-R14; S132.196, LCZ-S5; S132.212, MUZ-R11; S132.213, MUZ-S3; S132.216, TCZ-R1; S132.217, TCZ-R2; S132.218, TCZ-R3; S132.219, TCZ-R4; S132.220, TCZ-R5; S132.221, TCZ-R6; S132.222, TCZ-R11; S132.223, TCZ-R7; S132.227, TCZ-S5; S132.230, LIZ-S4; S132.233, GIZ-P5; S132.242, LLRZ-R1; S132.243, LLRZ-R2; S132.244, GRZ-R3; S132.245, GRZ-R4; S132.246, GRZ-R5; S132.247, GRZ-R6; S132.248, GRZ-R8; S132.249, GRZ-R9; S132.250, GRZ-R10; S132.251, GRZ-R11; S132.252, GRZ-R12; S132.253, GRZ-R13; S132.254, NCZ-R11; S132.255, NCZ-R12; S132.256, NCZ-R13 KiwiRail seeks an amendment to the rule to insert a "no build" setback within 5m of the railway corridor for new buildings and structures on sites adjoining the railway corridor. This is to ensure that people can use and maintain their land and buildings safely without needing access to the railway corridor, minimizing the risks of physical interference with railway operations and avoiding health and safety hazards for residents. Amend provisions as follows: Where: Any new or extended building or structure complies with (*relevant standards* as listed in each submission).
S132.114, LLRZ; S132.119, GRZ; S132.135, MRZ; S132.150, GRUZ; S132.158, RLZ; S132.170, SETZ; S132.181, NCZ; S132.197, LCZ; S132.214, MUZ; S132.228, TCZ; S132.231, LIZ; S132.235, GIZ; S132.236, SARZ Additional provisions sought: KiwiRail is concerned that without appropriate setback requirements, there is significant risk of adverse health and safety effects impacting people locating in proximity to the railway corridor. KiwiRail recommend that the following standard be applied over all zones for setback from rail corridor. Requests new standard LLRZ-S10 be added. Amend as follows: setback from rail corridor All activities

1. Any Building or structure must not be located within a 5m setback from a boundary with a rail corridor. Activity status where compliance not achieved: Restricted Discretionary Matters of discretion: 1. The safe and efficient operation of the rail network. 2. Compatibility with the surrounding environment. 3. The reason for the reduced setback.	
Further Submissions: FS27.026 Alliance Group Limited oppose S132.233, GIZ-P5 FS29.057 Silver Fern Farms Limited oppose S132.233, GIZ-P5 FS5.153 Hamish Weir oppose S132.119, GRZ	
S132.233 KiwiRail Holdings Ltd	Amend GIZ-P5 as follows: Require a level of on-site amenity, particularly at zone interfaces, consistent with the purpose of the zone by: .5. requiring appropriate setbacks from the rail network that do not impede on its safe, efficient operation.
FS27.026 Alliance Group Ltd *FS29.057 Silver Fern Farms Ltd*	*Disallow S132.233 KiwiRail Holdings Ltd. Policy GIZ-P5 addresses amenity and there is no clear effects-based need for a setback from rail lines in this regard.*
S132.136 KiwiRail Holdings Ltd	KiwiRail supports GRUZ-O2 in ensuring there is a very low degree of built form well setback from properties and roads but seeks to include rail. KiwiRail are seeking a 'no build within 5m from the rail corridor boundary' in the standards section of each zone, in addition the Railway noise control overlay is requested to be 100m from the rail corridor boundary. The setback is to ensure that people can use and maintain their land and buildings safely without needing access to the railway corridor, minimizing the risks of physical interference with railway operations and avoiding health and safety hazards for residents. Amend GRUZ-O2 as follows: The character and qualities of the General Rural zone comprise: 2. A very low degree of built form, well setback from other properties, rail corridor and roads; and

Commercial Zones Section 42A Report

4.4.1 The s42A Report prepared for the Commercial Zones Hearing, held on 24 June 2024 did not consider there was sufficient information to support a 5m setback from the railway corridor. It was acknowledged that some form of setback may be necessary or that KiwiRail needs to extend their area of designation. In the s42A Report for Commercial Centres it was stated at paragraphs 126 and 127:

> In terms of enabling maintenance of buildings to be undertaken without the risk of machinery, equipment or materials protruding into the rail corridor, we question how this would be different to the amount of space required to maintain any building adjacent to any other private property boundary. Unless legally enabled, no building owner or occupier can rely on access to adjacent private property to maintain their building and would need to seek permission from the adjacent landowner to extend maintenance activities over the property boundary. We consider that the same would apply in relation to the rail corridor, and believe it does via a Permit to Enter process.
>
> We note that the submitter has not provided compelling evidence of why a 5m setback is required. Many sites within the Mixed Use Zone are relatively small scale and a 5 metre setback would render a significant portion of a site unusable for structures and buildings which we consider would be an inefficient use of urban land without sufficient justification for the setback.

4.4.2 Concern was also expressed at paragraph 128 of the Commercial Zone s42A Report that a 5 metre setback would render a significant portion of sites within the Mixed Use Zone (which are relatively small scale) unusable for buildings or structures.

Submissions and Evidence of KiwiRail to Commercial Zones Hearing

4.4.3 Kristen Gunnell provided submissions on behalf of KiwiRail at the commencement of the Commercial Zones Hearing stating rail setbacks are not the same as yard buffers or setbacks for amenity, given there are significant and potentially severe consequences that can arise from encroachment onto the rail corridor. In her view a rail setback control has obvious safety benefits for the users of the land adjoining the rail corridor and users of the rail corridor; and efficiency benefits for rail operations, by mitigating against the risk of train services being interrupted by unauthorised persons or objects entering the rail corridor. She also stated extending KiwiRail's designation to adjoining properties would potentially impose a greater blight on private land than a setback control and would require developers to seek KiwiRail's approval under s176 RMA whenever they wish to undertake activities on that land.

4.4.4 In response to the impacts on sites in the Mixed Use Zone Kristen Gunnell submitted the proposed control only applies to new or altered buildings and structures and does not require any changes be made to existing buildings. She added other uses are enabled in the safety buffer area and resource consent is able to be granted where safety matters are adequately addressed by the applicant.

4.4.5 Michelle Grinlinton-Hancock, Manager of the KiwiRail RMA Team, with over 20 years planning experience provided written evidence stating at paragraphs 4.2 and 4.3:

> As an asset of national significance, it is important that the rail corridor can operate safely and efficiently without interference. Any interference with the railway corridor can be incredibly disruptive to rail services, creating unnecessary and cascading delays to passengers and freight. KiwiRail therefore seeks building setback controls from the rail corridor boundary for development on land adjoining the corridor, which is an efficient and effective means of ensuring that the risk of interference is mitigated.
>
> For the avoidance of doubt, a safety setback's primary function is as a safety buffer. It is distinct from noise and vibration provisions.

4.4.6 With regard to the s42A Report comment that KiwiRail could extend the area of its designation, Michelle Grinlinton-Hancock stated it is not an efficient use of land for KiwiRail to designate adjoining properties simply to ensure that people can safely access their own properties. That would impose much greater constraints on private land than the setback controls proposed here. In here view a safety setback is important to provide enough space within a site adjoining the rail corridor for the landowner or occupant of that building to maintain and access their own house or building safely, without accessing the rail corridor to do so.

4.4.7 It was her view that buildings built right up on the boundary (or which are subject to a minimal setback from the boundary) also significantly increase the risk of inadvertent incursion into the rail corridor from objects falling from open windows or being dropped from scaffolding / platforms that are used for maintenance. It is also a safety issue for residents who seek to retrieve items from the track, due to danger from trains.

4.4.8 When asked by the Panel whether there were any recorded instances of the issues she described occurring in the Gore District, Michelle Grinlinton-Hancock replied there were no records of that.

4.4.9 Michelle Grinlinton-Hancock also stated the width of the setback area needs to be sufficient for maintenance activities and access requirements, including scaffolding, ladders and other mechanical access equipment such as diggers that require approximately 3 to 5 metres for operation.

4.4.10 Louise Taylor, a consultant planner with more than 25 years' experience provided a written statement of evidence, referred to the provisions of the RMA, the Regional Policy

Statement ad considers these support the approach sought by KiwiRail. She also referred to the Emissions Reduction Plan (2022), although in reply to questions from the Panel acknowledged that a more recent Emissions Reduction Plan had been released and the provisions in the 2022 Plan she referred to were not included in the 2024 Plan.

4.4.11 At paragraph 6.5 of her evidence Louise Taylor stated:

> As noted in the s42A report, in the SARZ, standard S3 requires buildings and structures to be setback 10m and 5m from side and rear boundaries (depending on the adjoining zone). I agree with the s42A author that these setbacks provide suitable relief to the matter KiwiRail is seeking, and no further amendments are necessary in the SARZ in relation to this matter.

4.4.12 Louise Taylor referred to the provisions in other district plans, noting the Dunedin City and Christchurch City Plans provided a setback from the rail corridor of 4 metres.

4.4.13 For completeness Louise Taylor considered other methods (no setback and extending existing designation widths) to provide for building maintenance and safety of adjoining occupants. This was assessed in the format of Section 32AA Report attached to her evidence in which she concluded that a setback is the most efficient outcome.

Supplementary Evidence of the Council

4.4.14 The authors of the s42A Report provided supplementary evidence prior to the hearing in which it was accepted setbacks is a method commonly used to manage activities and development around critical infrastructure both for the effects on the network and for the safety of people but it was noted that the width of the KiwiRail designation varies, it is in a number of places over 50 metres wide and that the area includes not just the rail tracks but associated yards, storage areas and buildings. In response to the evidence of Michelle Grinlinton-Hancock the following statements were made at paragraphs 54 and 55:

> Ms Grinlinton-Hancock specifies that a five-metre distance to boundary is required within private property to allow for machinery, scaffolding and support structures with space around them for access within the property, and includes an allowance for falling objects. A diagram is provided in Appendix A of the submission that shows a range of different scenarios based on building height and height to boundary. Assumptions include a height to boundary control of 4m high at boundary and a 60-degree recession plane, building heights between 6.5m and 12m, and the trajectory of the falling object.
>
> I accept that buildings need maintenance, and that space required for structures and equipment for this would likely increase with the height of the building and need to be accommodated for within the site. However, I am unsure of the assumptions in Ms Grinlinton-Hancock's evidence in relation to the size and requirement of the support structure for the scaffolding and the access required around it which seems to be based on a worst case scenario, and the falling object trajectory as this seems to bounce outwards rather than fall downwards, and the evidence does not include what object this calculation is based on and how likely a scenario this is. There could therefore potentially be variables that would be able to reduce the distance required to boundary, and it is also noted that building maintenance appears to be able to be managed elsewhere within the standard side and rear yard setbacks within the zone.

4.4.15 The supplementary evidence also noted that nationally there is an inconsistent approach to setback to the rail corridor with other recent District Council plan reviews and plan change decisions having considered the 5m setback unwarranted and have either rejected the setback or included a lesser setback. As an alternative, it was recommended that a 2m setback from the rail corridor apply to the TCZ and LCZ in addition to the 1.5m setback in the MUZ.

4.4.16 As KiwiRail had not received the supplementary evidence prior to the hearing, Kristen Gunnell sought leave to provide a written response to the additional matters raised. That was granted by the Panel

Minute 11

4.4.17 Following the Commercial Zones hearing, on 26 June 2024 the Panel issued Minute 11 confirming the approval granted at the hearing enabling a written response to be given by KiwiRail to matters raised in the supplementary evidence from the Council. The Minute also sought feedback from KiwiRail to the suggestion raised by Commissioner Hovell at the hearing that the setback distance varies with the height of any building in proximity to the rail corridor boundary.

Response of KiwiRail to Supplementary Evidence and Minute 11

4.4.18 Kristen Gunnell on behalf of KiwiRail, in a memorandum dated 5 July 2024, provided a response to the supplementary evidence and Minute 11, noting:

- The width of the KiwiRail rail corridor is irrelevant for the purpose of the setback control. The fundamental starting point is people should not be entering the rail corridor to maintain their buildings as it is potentially dangerous.
- KiwiRail is also able to move the rail tracks anywhere within the designation boundary as may be required for operational reasons – including for sidings, shunts or additional tracks.
- Although there may be narrow (10m - 15m wide) properties on Main Street, Gore, the need to appropriately address health and safety effects, and to mitigate against the risk of train services being interrupted by unauthorised persons or objects entering the rail corridor applies regardless of the width of properties.
- The setback control does not mean there can be no use of private land within the setback control. Other uses are enabled, and resource consent can be granted for non-compliance with the standard where safety matters are adequately addressed by the applicant.
- The evidence of Michelle Grinlinton-Hancock and adoption of the 5m setback is based on the Dropped Object Exclusion Zone Tool developed by the Dropped Objects Prevention Scheme (a worldwide initiative focused on preventing dropped objects). This tool has been developed to help determine the width of an exclusion zone, based on determining the trajectory on the dropped item (using the 75th percentile i.e. 75% of steel objects are predicted to land within this distance
- While the district plan provides setbacks they are not sufficient to enable the residents of the District to use and maintain buildings on their properties safely, while also protecting rail operations from interference.
- KiwiRail has recorded instances of objects and other material being present within the rail corridor from 2020 to now, but these records do not specify how such objects entered the corridor. The lack of specific incident records in this location is due to the fact the Main South Line already has good separation from adjoining properties in the Town Centre, Local Centre, Neighbourhood Centre and Mixed Use Zones.

4.4.19 In a supplementary statement of evidence forming part of the KiwiRail response, Louise Taylor recommended the following rules applying to all zones adjoining the rail corridor:

1. Any building or structure no greater than 3m in height shall be setback at least 2.5m from the Rail Corridor

2. Any building greater than 3m and no greater than 9.5m in height shall be setback at least 4m from the Rail Corridor

3. Any building greater than 9.5m in height shall be setback at least 5m from the Rail Corridor

Rural Zones Hearing

4.4.20 The s42A Report prepared for the Rural Zones Hearing held on 22 July 2024 respectively contained the same assessment for the KiwiRail submissions as for the Commercial Zones report.

4.4.21 Michelle Grinlinton-Hancock by way of a letter dated 8 July 2024 advised that KiwiRail would not attend the hearing but regard should be had to the legal submissions and evidence prepared at the Commercial zones hearing was still applicable, subject to the adopted of the amended relief contained in the supplementary evidence of Louise Taylor.

Additional Evidence of Council

4.4.22 By way of a statement dated 19 July 2024 entitled Right of Reply Evidence, the authors of the Commercial Zones s42A Reports provided additional evidence arising from the Response of KiwiRail to Supplementary Evidence and Minute 11 stating at paragraphs 9 - 12:

> KiwiRail has indicated that they believe the lack of reported incidences in the Gore District is a result of the Main South Line having good separation from adjoining properties in the Town Centre, Local Centre, Neighbourhood Centre and Mixed Use Zones. There are currently no yard setback requirements in the Commercial and Mixed Use Zones, but a daylight admission control applies. Yet, KiwiRail has argued that permanent space within private property is still required to not only allow for temporary scaffolding and support structures, but to have additional space around them for access, and to allow for hypothetical dropped objects where this object bounces of a scaffolding guardrail. The extent of the setback distance is primarily derived from the outputs from Dropped Objects Exclusion Zone Tool.
>
> The Dropped Objects Prevention Scheme DROPS is a global initiative by the oil and gas industry where dropped object safety is a key concern. The Dropped Objects Exclusion Zone Tool calculator is only one tool used to manage personnel exposure to the potential risk of dropped objects. Other recommended practices that form part of the DROPS system approach are to establish risk-based zones for a site, using the DROPS calculator for the risk profile based on the weight of the item, securing systems, processes and personnel training.
>
> The use of the Dropped Objects Exclusion Zone Tool by KiwiRail appears to have been taken somewhat out of context. The tool is primarily to protect personnel within a high risk work site, not to protect infrastructure. Although the principle of calculating a deflection trajectory may have some validity, the use of Dropped Objects Exclusion Zone Tool for this purpose appears to be inconsistent with the intent of the tool. The tool is intended to be flexible in application, educate and provide guidance rather than act as a prescriptive solution, and is designed to work in concert with the DROPS calculator. It is also questionable if work safe practices for the energy sector, to protect people from falling objects, are directly transferrable to the maintenance of private buildings on adjoining sites, to manage risk to the rail network.
>
> KiwiRail's proposed stepped setbacks are based on the distances from the Dropped Objects Exclusion Zone Tool, which we consider flawed for the reasons indicated above. The dropped object scenario is overall highly hypothetical in nature, and we therefore do not consider that the reliance on it to determine the setback distance for buildings, is appropriate. The cost to the private landholder with KiwiRail's proposal would appear to be disproportionate, especially as there are currently no recorded incidences and the setback distances have not been sufficiently justified. We do however consider that it is reasonable

to have a setback to enable building maintenance within private property and that a stepped setback based on building height is appropriate.

4.4.23 The statement while accepting the need for a setback noted that proposed by Louise Taylor applied to all building and structures, including fences and ancillary structures including clotheslines. The following, applying only to buildings was recommended:

> Setback from Rail Corridor
> 1. Any building ~~or structure~~ no greater than 3m in height shall be setback at least ~~2.5m~~ 1m from the legal boundary with the rail corridor of the Main South Line.
> 2. Any building greater than 3m but no greater than 5m in height shall be setback at least 1.5m from the legal boundary with the rail corridor of the Main South Line.
> 3. Any building greater than 5m but no greater than 9.5m in height shall be setback at least ~~4m~~ 2.5m from the legal boundary with the rail corridor of the Main South Line.
> 4. Any building greater than 9.5m in height shall be setback at least ~~5m~~ 3.5m from legal boundary with the rail corridor of the Main South Line.

Industrial and Residential Zones Hearings

4.4.24 The s42A Reports for the Industrial and Residential Zones hearings held on 19 August 2024 and 21 August 2024 had regard to the further evidence provided by KiwiRail in response to Minute 11 and supported a stepped approach.

4.4.25 The s42A Report for the Industrial Zones hearing recommended the inclusion of a standard for the LIZ and GIZ, stating at paragraph 132.

> However, I recommend some amendments to the standard proposed within the Right of Reply to exempt buildings under 3m in height from having a setback on the basis that within the industrial zones there is likely to be buildings such as containers or smaller storage sheds which should be permitted to be close to the boundary on the basis that the maintenance of these buildings would not require scaffolding and as such the concerns raised by KiwiRail with regard to the placement of scaffolding is unlikely to be an issue, furthermore, these structures (such as containers) may be temporary or movable.

4.4.26 The following Standard was recommended for the LIZ and GIZ:

> Setback from Rail Corridor
> 1. Any building greater than 3m but no greater than 5m in height shall be setback at least 1m from the legal boundary with the rail corridor of the Main South Line.
> 2. Any building greater than 5m but no greater than 9.5m in height shall be setback at least 2.5m from the legal boundary with the rail corridor of the Main South Line.
> 3. Any building greater than 9.5m in height shall be setback at least 3.5m from the legal boundary with the rail corridor of the Main South Line.

4.4.27 The s42A Report for the Residential Zones noted the rail corridor does not pass through the LLRZ nor the MRZ. With regard to the GRZ a new Standard recommended the following, taking into account the maximum allowable height in the Zone is 8m as follows:

> GRZ-S11 Setback from Rail Corridor
> 1. Any building no greater than 3m in height shall be setback at least 1m from the legal boundary with the rail corridor of the Main South Line
> 2. Any building greater than 3m but no greater than 5m in height shall be setback at least 1.5m from the legal boundary with the rail corridor of the Main South Line.
> 3. Any building greater than 5m but no greater than 8m in height shall be setback at least 2.5m from the legal boundary with the rail corridor of the Main South Line.
> 4. Any building greater than 8m in height shall be setback at least 3.5m from the legal boundary with the rail corridor of the Main South Line.

4.4.28 Michelle Grinlinton-Hancock by way of a letter dated 5 August 2024 advised that KiwiRail would not attend the hearings and opposed the recommendations in the s42A Reports, favouring the amended relief contained in the supplementary evidence of Louise Taylor

dated 5 July 2024. With regard to comments in the Right of Reply evidence regarding the dropped object methodology used in the diagram provided by KiwiRail Michelle Grinlinton-Hancock stated:

> The intent of the dropped object methodology is to demonstrate a trajectory for objects if dropped off scaffolding. This applies regardless the type of site. Objects can, and do, fall from scaffolding. If they fall onto the rail corridor there is a safety risk to trains passing though, and people working within, the rail corridor. A section 32 report is attached as Appendix 2 which contains more detail around the context in which the diagram was prepared.

4.4.29 Appendix 2 of the letter dated 5 August 2024 contained the following reports:

- Assessment under Section 32 of the Resource Management Act 1991 Rail Safety Setback by Eclipse Group Ltd dated July 2024.
- Advice for KiwiRail on the safety implications of Advice for KiwiRail on the safety implications of construction and maintenance-related activities adjacent to rail by Eclipse Group Ltd dated 24 July 2024.
- High Level Assessment of Proposed Setbacks Adjacent to the Rail Network by Insight Economics dated 24 July 2024.

4.4.30 Victoria Woodbridge in a statement of evidence provided at the hearing for the Industrial Zones stated:

> I explained the rationale for the reduced setback within the Section 42A report and do not intend to repeat that response here. Ms Grinlinton-Hancock's evidence does not provide any further evidence beyond what has already been provided and therefore I remain of the view that a stepped setback with exemptions for buildings under 3 metres in height is appropriate for the industrial zones

4.4.31 Similarly, Joanne Skuse in a statement of evidence provided at the hearing for the Residential Zones had no further comments to add.

Assessment of the Panel

4.4.32 The Panel has reviewed all of the evidence and the reports submitted by KiwiRail and by the consultants advising the Panel. It has also had regard to the provisions of other district plans referred to in the evidence. What is immediately apparent to the Panel is the variability in approaches adopted across the country, with no single set of provisions. It is unclear to the Panel, why in the original submission a uniform 5 metre setback from the rail corridor was requested when district plans such as Dunedin had a 4 metre setback.

4.4.33 The Panel accepts the desirability of a setback from the edge of the rail corridor and that a relevant factor is the height of buildings adjoining the corridor. However, the Panel does not accept the method of KiwiRail in determining that setback, in particular the reliance on the Dropped Object Exclusion Zone Tool.

4.4.34 The Panel agrees with the authors of the s42A Report for the Commercial zones hearing that it appears to have been taken out of context. While the Tool was referred to in statements by witnesses representing KiwiRail, there was no evidence outlining the suitability of the Tool within a district plan framework. The Panel is not satisfied that the assumptions of the Tool, that a steel object would be deflected a particular distance from the drop point from a structure with a 60 degree setback from the boundary, are sufficiently robust to enable a setback distance to be calculated. In addition, there was no assessment of the validity of using a 60 degree setback angle for buildings adjacent to the rail corridor. It appears to the Panel, having regard to the "Height in relation to Boundary" provisions of the Plan that many sites adjoining the rail corridor have a height plane of 45 degrees or less. This impacts significantly on the permitted height of

buildings. The weakness of the approach was reinforced to the Panel by the amended rule recommended by Louise Taylor with a maximum setback of 3.5 metres which was at considerable variance with the Tool. Taking this range of factors into account, the Panel has disregarded the Dropped Object Exclusion Zone Tool as a means of establishing setback distances.

4.4.35 Kristen Gunnell in her legal submissions on behalf of KiwiRail at the commencement of the Commercial Zones Hearing stated rail setbacks are not the same as yard buffers or setbacks for amenity, given there are significant and potentially severe consequences that can arise from encroachment onto the rail corridor. The Panel understand the difference but is of the view that that the yard buffers and Height in relation to Boundary controls cannot be overlooked, particularly when Louise Taylor in her evidence stated within the Sport and Active Recreation Zone the required setback of 10m and 5m from side and rear boundaries (depending on the adjoining zone) provide suitable relief to the matter KiwiRail is seeking, and no further amendments are necessary.

4.4.36 The Panel has listed below the zones adjacent to the rail corridor, together with required setbacks and permitted maximum height.

Zone	**Setback Side & Rear Boundary** HIRTB = Height in relation to Boundary	**Maximum Height**
General Rural	15m or 2m if less than 10m^2	12m
Settlement	4m or 2m for accessory building HIRTB: 2.6m plus angle	8m
General Industry	5m HIRTB: 2.6m plus angle	15m
Mixed Use	1.5m	10m
Light Industrial	2m	12m
Town Centre	2m	12m
Sport and Active Recreation	10 m or 5m HIRTB: 2.6m plus angle	8m
Local Centre Zone	2m HIRTB: 3m plus angle	9m
General Residential	1m HIRTB: 2.6m plus angle	8m

4.4.37 The Panel is satisfied that for the majority of zones, taking into account the maximum height allowed, the required setbacks together with the Height in relation to Boundary controls provide sufficiently to achieve the outcome sought by KiwiRail. The exceptions to this are the Mixed Use, Light Industrial and Town Centre Zones. In determining an appropriate setback within these zones, the Panel agrees with the logic of the authors of the later s42A Reports that additional setbacks for smaller buildings and structures. Louise Taylor in her modified recommendation sought a 1.5m setback from the legal boundary for structures with a height up to 5 metres. Given the minimum setback in the Mixed Use, Light Industrial and Town Centre Zones is not less than the Panel concludes rules applying to buildings less than 5 metres high are not required. For buildings greater than five meters in height there was agreement between the respective planners as to the content of the rule and that is adopted by the Panel.

4.4.38 The submissions of KiwiRail seeking the introduction of rules providing for the setback of buildings from the rail corridor is accepted in part by:

(a) adding the following to Standards MUZ-S3 and TCZ-S5 Setbacks from Side and Rear Boundaries:

2. Any building greater than 5m but no greater than 8m in height shall be setback at least 2.5m from the legal boundary with the rail corridor of the Main South Line.

3. Any building greater than 8m in height shall be setback at least 3.5m from the legal boundary with the rail corridor of the Main South Line.

(b) adding the following to Standard LIZ-S4 Setbacks from Side and Rear Boundaries:

3. Any building greater than 5m but no greater than 8m in height shall be setback at least 2.5m from the legal boundary with the rail corridor of the Main South Line.

4. Any building greater than 8m in height shall be setback at least 3.5m from the legal boundary with the rail corridor of the Main South Line.

(c) adding the following to Standards MUZ-S3 and TCZ-S5 Setbacks from Side and Rear Boundaries Matters of Discretion:

4. The extent to which the reduction in the *setback* will impact on the safe and efficient operation of the rail network.

(d) as a consequential addition, adding the following to the Interpretation section of the Plan:

Rail corridor	Means land shown designated on the District Plan maps as "Main Trunk Line" by KiwiRail Holdings Limited.

4.4.39 Having regard to the provisions of RMA s32AA:

Effectiveness and efficiency
The notified setback rules together with those set out above will enable the Council to effectively administer the Plan in a clear and consistent manner and will be an effective and efficient means of managing adverse effects on the rail corridor while allowing for efficient use of adjoining land.

Costs and benefits
The benefits of the proposal are that it is clear what is required in terms of Plan administration and the Plan is interpreted in a consistent manner. There may be some economic costs associated with the loss of land utilisation from the setback. However, a consenting pathway has been provided to enable consideration of development seeking a lesser setback, and costs associated with that and any otherwise loss of use of land may be outweighed by benefits to the safe and efficient operation of the rail network.

Risk of acting or not acting
There is the potential risk for adverse effects on the rail network if the decisions above are not implemented and limited risk if the amendments are made.

Conclusion as to the most appropriate option
The amendments above are considered to be a more appropriate way to achieve the Objectives than the notified version of the Plan.

4.4.40 The Panel notes regarding GRUZ-O2, Michelle Grinlinton-Hancock by way of a letter dated 8 July 2024 advised:

> The Council Officer does not consider any addition to GRUZ-O2 is necessary because the required setbacks in the GRUZ already exceed 5 metres. KiwiRail accepts the Council Officer's position and will not pursue this relief further

4.4.41 Accordingly, submission S132.233 KiwiRail Holdings Ltd is rejected.

4.4.42 The Panel also notes regarding policy GIZ-P5, Michelle Grinlinton-Hancock by way of a letter dated 5 August 2024 advised

> The Council Officer rejected KiwiRail's submission largely on the basis that there are other policies in the PDP Transport Chapter which more appropriately achieve the intent sought

by the amendment. As set out in Ms Taylor's evidence on Hearing Stream 2 KiwiRail accepts this position subject to amendments to the TRANS chapter policies.

4.4.43 As changes have been made to the policies in the Transport chapter, submission S132.233 is rejected.

References to Noise Standard Noise-S3

S132.195, LCZ-R10; S132.201, MUZ-R1; S132.202, MUZ-R2; S132.203, MUZ-R3; S132.205, MUZ-R4; S132.206, MUZ-R5; S132.207, MUZ-R6; S132.208, MUZ-R7; S132.209, MUZ-R8; S132.210, MUZ-R9; S132.211, MUZ-R10; S132.224, TCZ-R8; S132.225, TCZ-R9; S132.226, TCZ-R10; S132.234, GIZ-R9
KiwiRail generally supports the inclusion of provisions for complying with noise standard for acoustic treatments for alterations to existing buildings where occupancy relates to noise sensitive activities. KiwiRail recommends that the rule also refers to the standard provided at Appendix A of this submission (refer to full submission point 98). Amend as follows: Where: 1. Any new, extended or converted Building containing a noise sensitive activity complies with Noise-S3 (acoustic treatment) and Noise- SX (KiwiRail noise standard attached at Appendix A)

4.4.44 KiwiRail through Submissions S132.101 and S132.102 KiwiRail Holdings Ltd sought the inclusion of a new Standard that applied to the acoustic treatment for noise sensitive activities within the rail corridor noise control overlay. That has been provided for in paragraph 5.10.7 of Decision 34 Noise. In addition, KiwiRail through the submissions listed above sought inclusion of reference to the new Standard in various Zone rules. These submissions were referred to in the s42A Reports for the respective zone indicating the matter would be considered during the Noise chapter hearing, although it was not and no reference was made to these submissions in evidence presented at the Noise chapter hearing attended remotely by Michelle Grinlinton-Hancock and Stephen Chiles, an acoustics expert.

4.45 The Plan is to be read as a whole, and there are numerous provisions in the District Wide chapters that apply to activities in the Zone chapters. The Panel has endorsed and strengthened this approach where practical in order to avoid unnecessary duplication in the Plan. In the Panel's view there is no regulatory need or advantage by including reference to standards NOISE-S3 and NOISE-S4. The Panel does not accept that such references would assist Plan users taking into account, for consistency, reference would then be required to all relevant rules in the District Wide chapters in each of the Zone chapters. This would result in Plan difficult to read. Accordingly, the submissions listed above are rejected.

5. Minor Matters

5.1 Clause 16(2) of the First Schedule

5.1.1 Clause 16(2) of the First Schedule states:

> **16 Amendment of proposed policy statement or plan**
>
> (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.

5.1.2 Submissions from, and questions from the Panel to, Shelley Chadwick and Michael Garbett, Counsel for the Council, at various times through the hearing process assisted the Panel in determining the scope of clause 16(2).

5.1.3 Examples of where the correction of minor errors have been undertaken include:

- Correction of spelling and grammatical errors

- Removing reference to places and streams not located in the Gore District
- Inclusion of omitted words
- Correcting cross-referencing within the Plan
- Updating references in general explanatory text to external documents

5.1.4 Examples of alterations of minor effect included:

- Amending the text of the Overview to Plan chapters, in part to clarify the intent but also consequential to changes made to provisions in the chapter.
- Adopting consistency of wording, for example, standardising rules replacing “shall” where used, with “must”.
- Removal of ultra vires provisions. For example, notified rule NH-R2 included a note stating: “Regional Council recommendations take precedence over NH-R2”.
- Changes to wording of text and provisions for clarity
- Updating terminology where legislative changes have occurredRemoval of definitions where the defined term is not used in the Plan.
- Realigning zone boundaries where they did not precisely follow site boundaries

5.1.5 A minor change also related to the deletion of Notes from the Notified Plan, particularly those following policies and preceding rules in each chapter. In reply to questions from the Panel, legal advice from Shelley Chadwick was to the effect that these Notes had no legal standing and could only provide guidance in relation to how the provisions in the Plan should be interpreted.

5.1.6 Examples of Notes that have been deleted include:

- Those referring to provisions in other chapters of the Plan. The Plan is to be read as a whole and a description in the How the Plan Works section explains that.
- Those referring to Council bylaws, codes of practice and Management Plans. The Panel did not consider it appropriate for the Plan to refer to other documents in this way. Reference is made to external documents in the introductory chapter and if the Council considers it desirable explanatory material can be provided in brochures or on the Council’s web site.
- References to RMA s4(3) that provides an exemption to activities of the Crown under certain circumstances. An addition has been made to the Introduction to the Plan with an explanation of this.

5.1.7 The Panel is also of the view that removal of these duplicated provisions from throughout the Plan would facilitate readability.

5.1.8 In some instances the Notes read and were interpreted as though they were rules, particularly where reference was made to exemptions from rules within that chapter. Where subject to enabling submissions, these Notes were included as permitted activities in the Rules.