IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991

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 7: Natural Open Space Zone

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Date of Hearing
24 June 2024

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Appendix A. Submissions (attached as a separate document)

Appendix B. Plan Chapter (attached as a separate document)

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel on the submissions and evidence considered in relation to the Natural Open Space Zone (NOSZ) of the Proposed Gore District Plan (PDP). The Hearings Commissioners comprising the panel for this hearing were Commissioners Keith Hovell, Cliff Bolger and Glenys Dickson.

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations and the underlying evaluation contained in the s42A Report prepared by Joanne Skuse and Victoria Woodbridge. That report jointly considered submissions to the FDZ and the Camp Columba Zone, with specific commentary on submissions relating to the FDZ from Joanne Skuse. Where submissions were common to both zones a joint response and assessment was provided.

1.1.3 Attached is the updated provisions for the Field Days Zone, referencing changes authorised by this and other Decisions of the Panel. Changes made in response to submissions are shown in normal black font, with text either underlined for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions. Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

1.1.4 Appendix A lists the submissions considered in this decision and their outcome, described as accepted, accepted in part or rejected. For convenience, the Panel has chosen to make decisions on original submissions only. By implication, but not explicitly, it has also made decisions in relation to further submissions.

1.1.5 Attention is also drawn to Decision 2, Whole of Plan and Repeated Submissions that responds to submissions lodged to the District Plan as a whole, together with those lodged to multiple zones and/or chapters in the PDP. In some cases, these submissions may result in amendments to this chapter as well. Any such changes are annotated as a footnote in the updated provisions.

1.2 Abbreviations

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

Full Text	Abbreviation
Gore District Plan	Plan
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
Natural Open Space Zone	NOSZ
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under section 42A of the RMA	S42A Report
Resource Management Act 1991	RMA
RMA section	s
Royal Forest and Bird Society of NZ Inc	Forest and Bird
Southland Federated Farmers NZ	Federated Farmers
Transpower NZ Ltd	Transpower

1.3 Statutory Considerations

1.3.1 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.

1.3.2 In s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of s32, and when changes are recommended, a further assessment under s32AA is provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to make changes to the Plan in response to submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters seeking changes to District Plan provisions to have regard to the s32 provisions and provide material to the Panel that would facilitate any additional s32AA assessment required if it was of a mind to accept the changes they sought.

1.3.4 Where the Panel has made amendments to the Proposed Plan that are consistent with the recommendations contained within the s42A Reports and associated evidence the Panel has adopted the s32AA analysis contained within those reports and evidence, unless expressly stated otherwise. Those reports are part of the public record and are available on the Council's website.

1.3.5 Where the Panel has made amendments to the Proposed Plan that are not contained within the s42A Report, or which were not subject to a s32AA assessment provided by submitters, the Panel has undertaken the required s32AA analysis and has incorporated it into the body of the decision, with the required assessment forming part of the evaluation. The Panel is satisfied that the required substantive assessment has been undertaken where required.

1.4 Procedural matters

1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with clause 8AA of Schedule 1, on the submissions relating to the NOSZ.

1.4.2 None of the Panel members identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearing.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 Natural Open Space Zone Hearing

2.1.1 The hearing in relation to this topic was held on 24 June 2024 at the Gore District Council administration building, in Gore. Submissions with regard to the NOSZ were heard together with other matters in Hearing Stream 2.

2.1.2 Submitters who appeared at the hearing on the NOSZ, or submitted further information for the Panel to consider are shown in Table 1.

Table 1. Airport Zone – Submitters Attending the Hearing

No.	Submitter	Attendees	Nature of Evidence
S64	Jet Boating NZ	Nathan Barker Eddie McKenzie	In person

S77	NZ Heavy Haulage Assn	Jonathan Bhana-Thomson	In person
S85	Environment Southland	Marcus Roy	Video link
S126	Federated Farmers	Bernadette Hunt Rachel	In person Video link

2.2 Other Hearings

2.2.1 Decision 2 lists the submissions lodged to the Whole of the Plan. Submission S139.040 Hokonui Rūnanga Inc raises issues relevant to this decision and in that regard, relevant evidence was received by the Panel during the hearings to consider submissions to the Mana Whenua and Sites of Significance to Māori chapters from:

- Courtney Bennett for the Gore District Council
- Amy Beran for Hokonui Rūnanga

2.2.2 The Panel received evidence in HS3 on 22 July 2024, HS8 on 5 December 2024 and HS9A on 19 February 2025 from Courtney Bennett and Amy Beran, which included recommendations on provisions in the Field Days Zone that manage effects on Ngāi Tahu cultural values. For provisions where there were no matters in contention or further recommendations arising from evidence received in HS8 or HS9A, these are not discussed further in this decision. Otherwise, discussion the evidence is included in this decision in relation to particular provisions of the chapter.

3 Assessment of Submissions

3.1 Interpretation – Conservation Activity

Submitter (S)	Decision Requested
S3.083 Stoney Creek Station Ltd; S113.083 Trudy Bokser; S116.083 Nathan Bokser; S118.083 AW&JA Johnston Family Trust; S127.119 Peters Farm Ltd, Karen Peters; S20.085 Karen Temple; S18.085 Reaby Downs Farm Ltd; S24.087 Helen McIntosh; S19.085 Sarah and Peter Barclay; S68.087 John Baynes; S117.083 Greg Bokser; S109.003 Department of Conservation	Retain definition as notified
S126.013 Southland Federated Farmers of NZ S115.014 Kevin Robertson S143.025 Rural Ratepayers Group S148.026 Alistair & Bernadette Hunt; S60.106 Ronald Crispin S68.134 John Baynes	Amend and make any necessary consequential amendments: Activities to manage, maintain and/or enhance ~~Means the use of land for the management, maintenance and enhancement~~ of ecological values for indigenous vegetation and fauna and their habitats. It may include: ~~includes:~~ (a) both western Science or mātauranga Māori; (b) weed, invasive species and pest control; (c) fencing and farm fencing; and (d) restoration planting.

3.1.1 The Panel acknowledges the submissions in support of the definition. As no change is being made to the provision, submissions Stoney Creek Station Ltd and others are accepted.

3.1.2 The Panel agrees with the advice of Joanne Skuse at paragraph 46 of her s42A Report that the changes sought to the definition do not add anything new to it. Accordingly, submissions S126.013 Federated Farmers and others are rejected.

3.2 General Submissions in Support

Submitter (S)	Provision
S109.010 Department of Conservation	Interpretation - Park Management Activity
S146.093 Southland District Council	NOSZ - General
S109.129 Department of Conservation	NOSZ-O2
S109.130 Department of Conservation	NOSZ-O3
S109.134 Department of Conservation	NOSZ-P4
S64.023 Jet Boating NZ	NOSZ-R2
S109.136 Department of Conservation	NOSZ-R3
S109.140 Department of Conservation	NOSZ-R3
S109.137 Department of Conservation	NOSZ-R10

3.2.1 These submissions supported the listed provisions in the PDP, seeking their retention, and were the only submissions to these provisions. The Panel acknowledges and accepts these submissions.

3.3 Objective NOSZ-O1

Submitter (S) Further Submitter (FS)	Decision Requested
S109.128 Department of Conservation	Retain NOSZ-O1 as notified
S139.082 Hokonui Rūnanga Inc	Amend to read: Natural character, biodiversity and amenity values are retained Ngāi Tahu cultural values are retained and the values mana whenua hold in relation to the mauri of whenua, wai and ecosystems, mahinga kai, the whakapapa of place and the ethic of ki uta ki tai are recognised and provided for.

3.3.1 The Panel agrees with the assessment of Joanne Skuse at paragraphs 64 – 67 of her s42A Report that the outcome sought by the Hokonui Rūnanga could be achieved by a more concise alternative. Evidence received from Courtney Bennett and Amy Beran in HS8 and HS9A included an analysis of notified FDZ-P5 and FDZ-P6 in relation to Ngāi Tahu cultural values, relying on the wording requested in the Hokonui Rūnanga submission without further modification. However, the Panel's preference is to refer to Ngāi Tahu cultural values "listed in MW-1.2", consistent with Decision 14 and Decision 43.

3.3.2 The Panel also notes that the second sentence of the objective is out of context. It is a factual statement rather than an expression of an outcome sought. As it has no force as stated, as a minor matter under cl 16(2) the Panel is removing this text from the objective and adding it in a modified form into the Overview and Purpose section.

3.3.2 Submissions S109.128 and S139.082 are accepted in part by amending NOSZ-O1 as follows:

Natural character, biodiversity and *amenity values* and Ngāi Tahu cultural values listed in MW-1.2 are retained. ~~Undeveloped open areas and expanses of *land* containing minimal *buildings* are the predominant characteristic of the Natural Open Space Zone.~~

3.3.3 The second sentence of the first paragraph of the Overview and Purpose is amended to read:

It is applied to *land* that is managed by the Council or the Department of Conservation for a conservation purpose~~, which~~ and is characterised by areas of *indigenous vegetation*, ~~and~~ a high degree of naturalness, undeveloped open areas and expanses of land containing minimal buildings.

3.4 Policies NOSZ-P1 and NOSZ-P5

Submitter (S)	Decision Requested
S64.021 Jet Boating NZ	Amend Policy NOSZ-P1 wording of as follows. Enable recreational, sporting and community activities, limited commercial activities and rural activities that are compatible with the character and amenity of the site and surroundings, or if potentially incompatible can still be enabled albeit controlled or managed to reasonably mitigate adverse effects.
S109.139 Department of Conservation	Amend NOSZ-P1 as follows (or with other wording to similar effect): Enable recreational, sporting and community activities, limited commercial activities ~~and rural activities~~ that are compatible with the character and amenity of the site and surroundings. And any other consequential changes.
S64.022 Jet Boating NZ	Amend Policy NOSZ-P5 as follows. ~~Avoid~~ Activities that are potentially incompatible with the character, qualities and purpose of the Natural Open Space Zone are enabled albeit controlled and managed to mitigate adverse effects.
S109.135 Department of Conservation	Retain Policy NOSZ-P5 as notified

3.4.1 The Panel notes limited controlled grazing takes place within Dolamore Park and this is provided for under the Council's Reserve Management Plan. The Panel accepts, as noted by the Department of Conservation, that such grazing is not compatible elsewhere in the Zone given the values set out in the Southland Conservation Management Strategy.

3.4.2 Submission S109.139 is accepted by amending NOSZ-P1 as follows:

Enable recreational, sporting and community activities, and limited *commercial activities* ~~and rural activities~~ that are compatible with the character and amenity of the *site* and surroundings.

3.4.3 The Panel notes the NOSZ applies to Dolamore Park and Croydon Bush, both of which are classified as reserves. The Panel agrees with the assessment of Joanne Skuse at paragraph 79 of her s42A Report that the natural character values of these areas need to be preserved and it is inappropriate to make provision in the policies for "incompatible activities". The Panel also notes the comment from Nathan Barker at the hearing, that it was his expectation the NOSZ would apply to river areas suitable for navigation, which is not the case. Accordingly, submissions S64.021 and S64.022 Jet Boating NZ are rejected.

3.4.4 The Panel acknowledges the submission in support of Policy NOSZ-P5. As no changes are being made to the provision submission S109.135 Department of Conservation is accepted.

3.5 Policy NOSZ-P2

Submitter (S)	Decision Requested
S110.066 Royal Forest and Bird Society of NZ Inc	Add**:** 7. Ensuring indigenous vegetation is not disturbed or cleared**.**
S109.132 Department of Conservation	Retain as notified

3.5.1 The Panel considers the addition sought by Forest and Bird to be impractical. Within the NOSZ public toilets, roads and tracks pass through vegetated areas. As part of regular maintenance, trimming and removal of indigenous vegetation is required. The land within the NOSZ is classified as Reserve. The Panel considers the provisions of the District Plan, the Council's Reserve Management Plan and the Southland Conservation Management Strategy provide a robust framework to ensure adequate protection of indigenous vegetation. Accordingly, submission S110.66 Royal Forest and Bird Society of NZ Inc is rejected.

3.5.2 The Panel acknowledges the submission in support of Policy NOSZ-P2. As no changes are being made to the provision submission S109.132 Department of Conservation is accepted.

3.6 Policy NOSZ-P3

Submitter (S)	Decision Requested
S125.080 Ministry of Education	Supports NOSZ-P3 in part as it provides for educational activities in the Natural and Open Spaces Zone.
S125.081 Ministry of Education	Amend as follows: Manage education facilities ~~activities~~ that are potentially compatible with the role, function, and predominant character of the Natural Open Space Zone, and ensure it is appropriate for such activities to establish in the Natural Open Space Zone, having regard to whether: (...)
S139.083 Hokonui Rūnanga Inc	Amend to read: 3. the scale, design and layout of the activity and any associated built form is compatible with the character, ~~Ngāi Tahu cultural values,~~ and amenity of the natural open space area the activity is proposing to locate in including any values mana whenua associate with the whakapapa or mauri of the land and any sites of wāhi tapu or mahinga kai values; 4. any adverse effects on natural, indigenous biodiversity, ecological, landscape, cultural and/or historic heritage values, ~~or Ngāi Tahu values~~ can be appropriately avoided, remedied and/or mitigated; "
S109.133 Department of Conservation	Retain as notified

3.6.1 The Panel agrees with the assessment of Joanne Skuse at paragraphs 93 -95 of her s42A Report to amend NOSZ-P3 as generally requested by the Ministry of Education, although it notes the correct term to use is “educational facilities”.

3.6.2 As set out in paragraph 3.3.3 above, for consistency the Panel’s preference is to refer to Ngāi Tahu cultural values “listed in MW-1.2”, consistent with Decision 14 and Decision 43 rather than the wording sought by. Hokonui Rūnanga.

3.6.2 Submissions S125.081 Ministry of Education and S139.083 Hokonui Rūnanga Inc are accepted in part by amending NOSZ-P3 as follows:

Manage educational facilities ~~activities~~ that are potentially compatible with the role, function and predominant character of the Natural Open Space Zone, and ensure it is appropriate for such activities to establish in the Natural Open Space Zone, having regard to whether:

3 the scale, design and layout of the activity and any associated built form is compatible with the character, Ngāi Tahu cultural values listed in MW-1.2, and amenity of the natural open space area the activity is proposing to locate in.

4. any ~~adverse effects~~ impacts on natural, indigenous biodiversity, ecological, landscape, cultural and/or historic heritage values, Ngāi Tahu cultural values listed in MW-1.2 can be appropriately avoided, remedied and/or mitigated;

3.6.3 Given changes have been made to the policy, the Panel acknowledges and accepts in part submissions S125.080 Ministry of Education and S109.133 Department of Conservation supporting Policy NOSZ-P3.

3.7 Notes

Submitter (S)	Decision Requested
S109.138 Department of Conservation	Add: Note 2 Section 4(3) of the RMA allows certain Crown activity to contravene a District Plan in relation to any work or activity on land held under the Conservation Act 1987 that is consistent with a conservation management strategy, a conservation management plan or management plan and does not have a significant effect beyond the boundary of that land. Accordingly, this chapter does not apply to Department of Conservation activities that meet section 4(3), but does apply to activities that do not meet section 4(3) of the RMA

3.7.1 The Panel agrees with the assessment of Joanne Skuse at paragraph 52 of her s42A Report, that it is appropriate to provide for this submission. To ensure consistency, the addition recommended would need to be included in the majority of chapters in the Plan.

To avoid such duplication the Panel prefers an addition to "How the Plan Works", noting the explanation given is factual and does not by itself constitute a rule in the Plan.

3.7.2 Submission S109.138 Department of Conservation is accepted in part by adding to the following prior to the section "Relationship with Other Plans and Documents":

Work or Activity of the Crown

Section 4(3) of the RMA allows certain Crown activity to contravene a District Plan as follows:

(3) Section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that—

(a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and

(b) does not have a significant adverse effect beyond the boundary of the area of land.

3.7.3 The Plan was notified with Note 1 following the policies, which the Panel has considered as part of its decision to remove unnecessary duplication within the Plan and determined that it can be deleted because reliance can be placed on the introductory sections of the Plan. This change is made as an amendment under Clause 16(2) of the First Schedule.

3.8 Rule NOSZ-R5

Submitter (S)	Decision Requested
S109.141 Department of Conservation	Remove Agricultural, horticultural and pastoral activities as a permitted activity within the NOSZ and consequential amendments to provide for these activities as a Non-Complying Activity.

3.8.1 Given the decision in paragraph 3.4.2, and the matters raised by the submitter, the Panel agrees with the assessment of Joanne Skuse at paragraphs 106 - 109 in her s42A Report, that it is appropriate to delete this rule altogether. This has the same outcome as that sought by the Department of Conservation.

3.8.2 Submission S109.141 Department of Conservation is accepted by deleting Rule NOSZ-R5.

3.9 Forest and Bird Submissions

Submitter (S)	Decision Requested
S110.067 Royal Forest and Bird Society of NZ Inc	Add to Rule NOSZ-R5: Activity status Permitted: 1. The activity should not cause an adverse effect on indigenous biodiversity or ecological corridors.
S110.068 Royal Forest and Bird Society of NZ Inc	Add to Rule NOSZ-R11: Matters of discretion. 10. Any adverse effects on indigenous biodiversity or ecological corridors
S110.069 Royal Forest and Bird Society of NZ Inc	Add to Rule NOSZ-R12: Matters of discretion. 11. Any adverse effects on indigenous biodiversity or ecological corridors.

3.9.1 The land within the NOSZ is classified as Reserve. The Panel considers the provisions of the District Plan, the Council's Reserve Management Plan and the Southland Conservation Management Strategy provide a robust framework to ensure adequate protection of indigenous biodiversity. Further, most of the zone is covered in vegetation, other than public access, parking, public facilities and recreational areas. Therefore, the issue of ecological corridors is not relevant in this zone. Accordingly, submissions S110.67, S110.68 and S110.69 Royal Forest and Bird Society of NZ Inc are rejected.

3.10 Rule NOSZ-R12

Submitter (S) Further Submitter (FS)	Decision Requested
S125.082 Ministry of Education	Support in part
S125.083 Ministry of Education	Amend as follows: Education Facility: Activity status: ~~Restricted Discretionary~~ Controlled
FS11.023 Heritage New Zealand Pouhere Taonga	Reject submission S125.083

3.10.1 The Panel accepts submission S125.082 Ministry of Education, noting the support in part for the rule, given educational facilities are provided for in the NOSZ.

3.10.2 The Panel agrees with the assessment of Joanne Skuse at paragraph 122 of her s42A Report that the controlled activity status sought would not in some instances adequately manage educational activities in the zone and protect the interests of the general public. Submission S125.083 Ministry of Education is therefore rejected.

3.11 SARZ Map

Submitter	Decision Requested
S85.060: Environment Southland	Prevent any new zone changes from the current District Plan which have the potential to intensify land use change and development within a flood inundation area.
FS5.198: Hamish Weir	Reject S85.060

3.11.1 The land within the NOSZ is classified as Reserve. The provisions of the District Plan, the Council's Reserve Management Plan and the Southland Conservation Management Strategy provide a robust framework to manage the intensity of development within the zone, which is likely to be only minimal. Further, most of the zone is covered in vegetation, other than public access, parking, public facilities and recreational areas. Therefore, the issue of intensification is not relevant in this zone. Accordingly, submission S85.060 Environment Southland is rejected.