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

Topic12: McNab

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Maria Bartlett

Dates of Hearing
5 December 2024
7 April 2025

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1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Panel on the submissions lodged by McNab Management Ltd (MML) seeking changes to the zoning and other provisions to enable the ongoing development of land at McNab. The relevant submission points from MML, and the further submissions lodged to them, are contained in Appendix A.

1.1.2 It should be noted that the original submission lodged by MML referred to the submitter incorrectly as McNabb Management Ltd. The correct terminology is used in this Decision.

1.1.3 Where the submissions lodged seek the inclusion of new provisions in the District Plan, including changes to zoning, these are provided for in this Decision. That includes the addition of a new Development Area into the Plan, as this is considered by the Panel as the most efficient and effective means of providing for a range of rural lifestyle and industrial developments on the MML land at McNab.

1.1.4 MML has also lodged a number of submissions opposing provisions in various chapters (explanatory text, objectives, policies, rules and standards) in the notified Proposed District Plan. These submissions are considered in the relevant chapters of the Plan, together with other submissions on those provisions.

1.1.5 The Hearings Commissioners comprising the panel for this hearing was Commissioners Cliff Bolger, Keith Hovell, Glenys Dickson and Maria Barlett. No member of the Panel identified any conflicts of interest.

1.2 Abbreviations used in the Decision

1.2.1 To facilitate writing of this Decision the following abbreviations have been used:

Full Term	Abbreviation
Gore District Council	GDC, Council
Hearings Panel	Panel
McNab Management Ltd	MML
National Policy Statement Highly Productive Land	NPSHPL
New Zealand Trasport Agency Waka Kotahi	NZTA
Proposed District Plan	PDP
Report prepared under section 42A of the RMA	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Southland Regional Policy Statement	RPS

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 Submissions relevant to this Decision were first referred to in the s42A Report prepared by Joanne Skuse regarding the submissions to the Rural Zones, set down to be heard on 22 – 24 July 2024. In that report the submission of MML seeking a change to the zoning of the land was described. Joanne Skuse at paragraph 397 of her s42A Report provided the Panel with the following assessment:

> The submission requests multiple re-zonings, including requests for the Māori Purpose Special Zone to be moved, and deferred Industrial zoning. Hearing Stream 4a will review the Māori Purpose and Industrial Zones together. I consider it is most efficient and effective for the submission from McNabb Management Ltd and further submission from NZTA, to be deferred to Hearing Stream 4. The submitter further needs to provide technical information in support of their request and a s32AA assessment. I acknowledge that this may result in consequential amendments to the GRUZ and RLZ chapter, however given the area in question is held currently within the same ownership and farm operation, if changes are made as a consequence of the later hearing stream it will be site specific.

1.4.2 The MML submissions were then to be considered at the hearing set down for 19 – 21 August 2024. However, in a memorandum dated 19 June 2024 from Michael Garbett, Counsel for the Gore District Council, directions were sought from the Panel as to the preparation of evidence and submissions in relation to that matter. A further memorandum dated 25 June 2024 was received from Joshua Leckie and L Rolph, Counsel for MML, requesting the hearing be deferred until Hearing Stream 10, commencing 10 March 2025.

1.4.3 Joshua Leckie in the memorandum also advised MML did not seek a Mahinga Kai Special Purpose Zone and this is an error on the plan attached to the submission. He advised MML seeks a riparian setback for water quality and mahinga kai activities addressed though the underlying zone provisions.

1.4.4 The Panel considered both memoranda and agreed it was appropriate to defer consideration of these submissions. However, in Minute 13, dated 3 July 2024, the Panel did not agree with the hearing being held in March 2025 as the requested date was too late in the hearing process should the Panel seek additional information from the parties prior to the formal closing of the hearings. Rather, the Panel set the hearing

down for 5 – 6 December 2024. The Panel also made other directions concerning the order for the preparation of evidence and reports.

1.4.5 As a first step, Minute 13 directed the Council's s42A Officers to identify and provide to McNab Management Ltd requirements for information considered relevant for their further assessment under section 42A and for the Panel to assess under RMA s32 and s32AA. That information was provided by Victoria Woodbridge and Courtney Bennett on 30 July 2024.

1.4.6 Evidence from MML was received on 7 October 2024, from the following:

- Christine McMillan, covering planning issues
- Jason Bartlett, providing a traffic assessment
- Fraser Colgrave, providing an economic assessment of the proposed rezoning
- Justin Ralston, regarding servicing at the MML site

1.4.7 On 8 November 2024 the Panel received:

- A s42A Report prepared jointly by Victoria Woodbridge and Courtney Bennett dated 7 November 2024. That document also contained:
  - A transportation review by Logan Copland dated 6 November 2024
  - A flood assessment by Richard Brunton dated 18 July 2024
  - An email from Jason Domigan of GDC regarding servicing dated 20 May 2024
- A statement of evidence from Helen Dempster on behalf of NZTA dated 31 October 2024

1.4.8 Prior to the hearing, statements of rebuttal evidence on behalf of MML were received from:

- Terry Nicholas, General Manager of Hokonui Runanga, supporting MML
- Christine McMillan
- Jason Bartlett
- Justin Ralston

1.4.9 Legal submissions were also received from:

- Joshua Leckie on behalf of MML
- Shelley Chadwick on behalf of the GDC

1.4.10 Also prior to the hearing, an Addendum dated 29 November 2024 was received from the s42A Report writers.

1.4.11 The hearing commenced on 5 December 2024, extending to 6 December 2024.

1.4.12 A number of issues arose at the hearing, that in the view of the Panel required further consideration and assessment by the submitter, NZTA and the GDC. Minute 29 issued by the Panel on 9 December recorded a commitment by MML to circulate supplementary evidence by 19 December 2024, and for all parties to submit any addition evidence by 24 February 2025. An opportunity was provided to these parties to appear at the hearing final hearing being held on 7 April 2025 to provide feedback on any outstanding issue.

1.4.13 On 24 February 2025 the Panel received:

- A memorandum from Joshua Leckie on behalf of MML
- A supplementary statement of evidence from Christine McMillan

1.4.14 On 7 March 2025 the Panel received Right of Reply planning evidence from Victoria Woodbridge.

1.4.15 The s42A Report, dated 14 March 2025, prepared by Tina Carlson-McColl for the final hearing on 7 April 2025 contained details of consequential changes required to the PDP arising from the MML submissions. Appendix C of the Report provided an overview of final changes recommended to the District Plan maps through the full hearing process. That included Figure 13: McNab Rural Industry Precinct Zoning, prepared by Matt Heale.

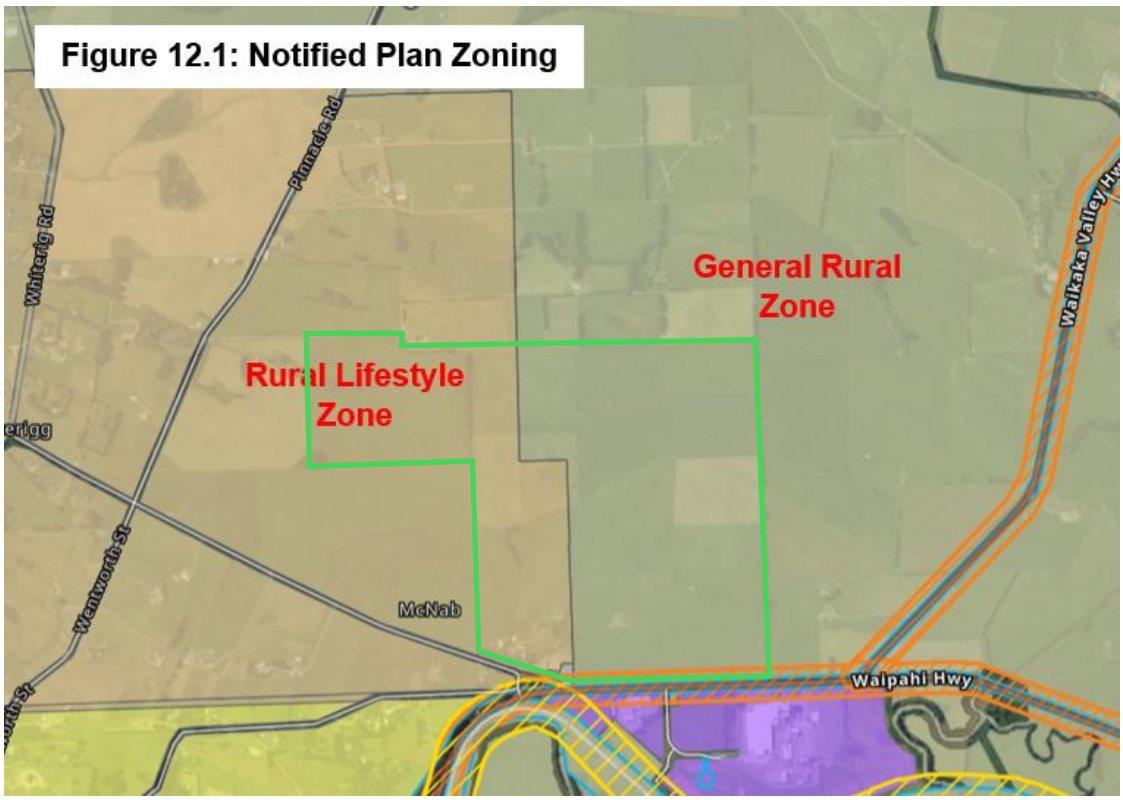
1.4.16 On 21 March 2025, the Panel received a memorandum from Joshua Leckie, noting Figure 13 was not the final recommendation from Matt Heale. The correct map was attached to the memorandum.

1.4.17 All written material received by the Panel is available on the Council's web site.

2. Relief Sought by McNab Management Limited

2.1 Notified PDP Provisions

2.1.1 To provide a baseline for the deliberations of the Panel notes the following as the zoning applying to the McNab area as notified in the PDP with the land subject to the MML submissions shown outlined in green:



2.1.2 The land subject to the MML submission is zoned Rural Lifestyle and General Rural. Waipahi Highway is State highway 1 and Waikaka Valley Highway is State highway 90. Both are designated with associated (orange) State Highway Noise Control Overlays. Part of the KiwiRail designation with its associated (yellow) Railway Noise Control Overlay is also shown. The purple area is the industrial zoned land of the Mataura Valley Milk processing plant and the area coloured yellow is zoned General Residential.

2.2. The Submission Lodged (October 2023)

2.2.1 MML lodged various submission points regarding the land at McNab. In all cases these submission points were opposed by NZTA. The key submission regarding the maps in the PDP appeared in the summary of submissions as follows:

S103.002, S103.029 McNab Management Ltd

1. Retain the proposed Rural Lifestyle Zone over part of land located at 10 McKinnon Road, but amend the area and boundaries as shown on the concept plan attached to and forming part of this submission.
2. Retain the proposed General Rural Zone over part of land located at 10 McKinnon Rd, but amend the area and boundaries as shown on the attached concept plan and overlay that General Rural Zone with a Rural Industrial Precinct called 'PREC14 - McNab Rural Industry Precinct.'
3. Add a new Māori Special Purpose Zone as shown on the concept plan.
4. Add a deferred Light Industrial Zoning over 10 hectares of the proposed GRUZ-PREC14 adjoining Waipawa Highway/SH 1 as shown in the concept plan, with the zoning deferred until such time as:
   - Te Ika Rama Marae is relocated to the new Māori Special Purpose Zone at 10 McKinnon Rd; and
   - An alternative access road is provided from Waipawa Highway/SH 1 as shown in the concept plan.

Reasons: Proposed amendments support a bespoke development concept for the property at 10 McKinnon Rd as a kainga nohoanga: providing opportunities for living, working and community while maximising the natural capital of the property and its surroundings. The requested amendments to the proposed zonings work with the geography of the site:

- Developing around rather than over existing water bodies and natural drainage patterns;
- Promoting an extensive area for biodiversity enhancement, mahinga kai and flood management on those parts of the property which have those characteristics;
- Relocating Te Ika Rama Marae to higher ground and providing opportunities for associated housing and community facilities;
- Using the concept of clustering and open space, to provide a rural lifestyle development that is rural in character, has a low environmental footprint, and retains options for productive use of the land; and
- Providing rural industrial support facilities in an appropriate location.

FS14.058, FS14.059 NZ Transport Agency Waka Kotahi Disallow S103.002, S103.029 McNab Management Ltd

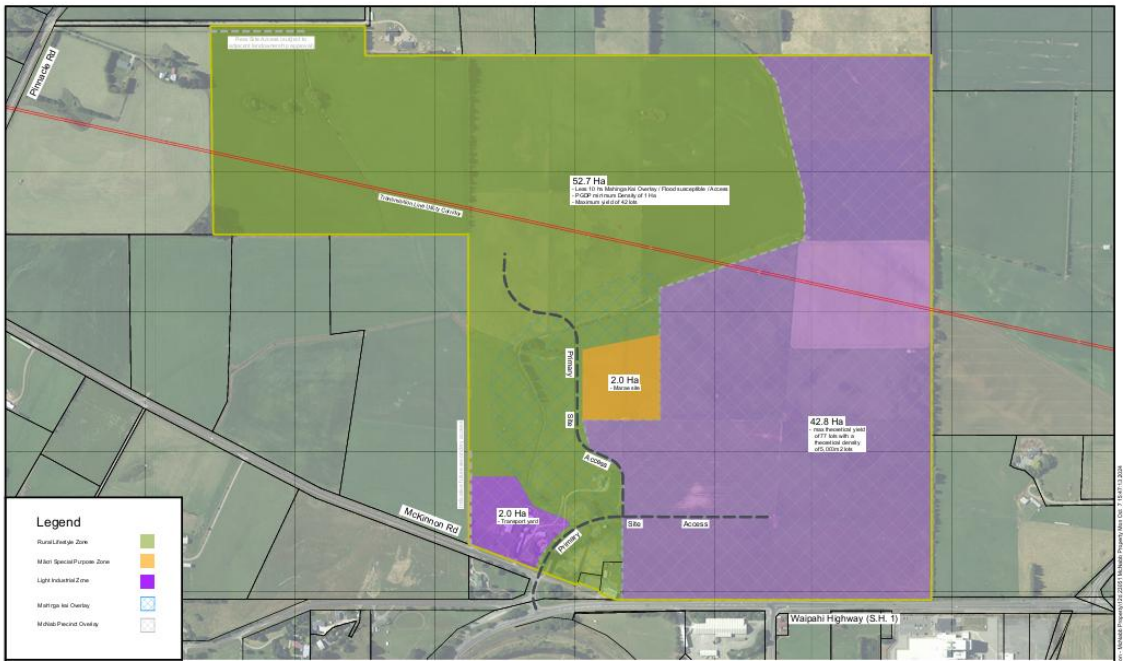
While the proposed McNab Rural Industry Precinct would be accessed directly from a local road, that local road connects to State Highway 1 a short distance away. The proposed amendments sought by MML to enable the creation of the McNab Rural Industry Precinct, which includes an area of deferred Light Industrial Zoning, do not give the New Zealand Transport Agency (NZTA) sufficient certainty about the expected traffic generation that will arise as this precinct is developed, and what upgrades to the local road intersection with State highway 1 might be required and when. We consider that an Integrated Transport Assessment needs to be completed to identify the traffic effects of the proposed precinct, and when the highway intersection would need to be upgraded. NZTA would want provisions included in the Plan to manage the intersection.

2.2.2 Additional submission points related to:

- GRUZ-Overview and Purpose: Rural Industry Precinct
- GRUZ - General Rural Zone GRUZ-PREC13-O1
- GRUZ - General Rural Zone GRUZ-Additional policy sought
- GRUZ - General Rural Zone GRUZ-Additional rule sought
- GRUZ - General Rural Zone GRUZ-Additional standard sought

2.3 Hearing December 2024

2.3.1 Christine McMillan in a statement of evidence dated 7 October 2024 included the following concept plan for the MML land:



2.3.2 Joshua Leckie, counsel for MML, in legal submissions dated 28 November 2024, provided the following overview to explain the change in the relief sought:

> 6. A key consideration to the appropriateness of the amended relief are the risks caused by the National Policy Statement for Highly Productive Land 2022 (NPSHPL). On that:
>
> (a) Council and McNab agree the NPSHPL is not a barrier to the current rezoning in light of the Site being identified in the Spatial Plan as a future urban area.
>
> (b) However, as the Site contains LUC3 soils there is a risk that retaining an underlying rural zoning would trigger the restrictions in the NPSHPL in the future,

for example if the Site were to be excluded from the next spatial plan for the district and no longer subject to this exemption under the NPSHPL.

7. Accordingly, given rural industry activities are considered to be appropriate for the Site (which the Council and McNab are agreed on), an underlying urban zone is more appropriate to enable the types of activities anticipated for the Site in the longer term and not have that trumped by national direction in the future.

8. It is McNab's case that the use of the Site for local rural industry activity, rural lifestyle blocks, and the relocation of the Marae, is the most appropriate use of the land given its context in an existing rural area with nodes of industrial activity.

2.3.3 The changes sought in the amended plan were:

(a) General Rural Zone with Rural Industry Precinct Overlay replaced by Light Industrial Zone with a McNab Precinct Overlay, and a minor reshaping of the now 2.0 ha lot fronting McKinnon Road.

(b) Light Industrial Zone (deferred) replaced by Light Industrial Zone.

(c) Mahinga Kai Special Purpose Zone deleted, replaced in part by a Mahinga Kai Overlay (the extent of which is difficult to see on the plan submitted)

(d) Removal of a Future Primary Site Access direct from State highway 1.

(e) Inclusion of a Primary Site Access from McKinnon Road, providing a connection to the main block of Light Industrial Zone land and to the centre of the Rural Lifestyle Land and to the Maori Special Purpose Zone.

2.3.4 In addition to the maps changes, additional District Plan provisions were sought with regard to site-specific objectives, policies and rules as consequential relief. The effect of these changes is to restrict the range of activities enabled within the proposed McNab Precinct.

2.3.5 Joshua Leckie summarised the additional changes sought in his legal submissions as follows:

16 McNab seeks the introduction of one additional objective and policy within the Light Industrial Zone (LIZ) to set clear direction that rural industry activities are anticipated in the McNab Precinct, and not the full scale of light industrial activities that are enabled elsewhere within the LIZ. These are site specific and differentiates the McNab Precinct from the remainder of the Light Industrial Zone, where a range of activities are enabled. Objective LIZ-PREC3-O1 sets out that predominantly rural industry activities are to be enabled within the McNab Precinct. To achieve this, it is proposed that the McNab Precinct is explicitly excluded from the policies within the LIZ that are enabling of light industrial activities. Policies LIZ-P1 and LIZ-PREC3-P1 provide policy support only for rural industry activities in the McNab Precinct and excludes policy support for wider industrial activities.

17. To address issues raised in the Section 42A Report regarding lot sizes, a 1 ha minimum lot size is proposed to provide balance between enabling rural industry activities in the McNab Precinct whilst ensuring the built form does not dominate and is responsive to the surrounding environment. A setback of 20m from the adjacent Rural Lifestyle and Māori Purpose zones is also proposed for the McNab Precinct to ensure the activities within the McNab Precinct do not result in unreasonable effects in the adjacent zones.

2.3.6 Following the December 2024 hearing, the Panel issued Minute 29 in which it indicated it would welcome consideration of an option that includes a Development Area and associated Outline Development Plan based on the approach used in the Gore West and Gore South Development Areas.

2.4 April 2025 Hearing

2.4.1 In a supplementary statement of evidence dated 24 February 2025 Christine McMillan submitted an Outline Development Plan. Amendments from the December 2024 Plan were as follows:

(a) An additional access shown from McKinnon Road,

(b) Removal of the "Primary Site Access" to the Rural Lifestyle Land and to the Maori Special Purpose Zone.

(c) Removal of the Rear Site Access (subject to adjacent landownership approval) from Pinnacle Road.

(d) Part of the Mahinga Kai Overlay is replaced by a "stormwater management area".

(e) A 20 metre wide (green) buffer area is provided on the periphery of the majority of the proposed Light Industrial Zone.

(f) A 5 metre (lime) buffer area is provided along the State highway 1 frontage.

2.4.2 Attached as Appendix C of the supplementary statement of evidence from Christine McMillan were recommended changes to the District Plan provisions, comprising additions and alterations to the:

- Light Industrial Zone rules and standards
- Rural Lifestyle Zone Overview and Purpose
- Subdivision chapter rules and standards
- How the Plan Works chapter
- Interpretation chapter

3 Evidence and Submissions

3.1 McNab Management Limited – Evidence in Chief

Justin Ralston

3.1.1 Justin Ralson is a Senior Civil Engineer at Airey Consultants Limited with over 25 years of experience. His evidence dealt with infrastructure issues, in particular the feasibility of servicing the site with stormwater, wastewater and water supply services.

3.1.2 Justin Ralston noted the site currently has access to water from the Otama Rural Water Scheme with an allocation of 3 units of 1.8m^3/day and that the existing marae may have an additional allowance. He noted the current Otama scheme is not accepting additional connections at this time and the current allowance would not be sufficient for the intensification of the site. Justin Ralston considered two feasible additional sources of water are available, either preferably from a bore on site, or if not suitable then from a connection to the Gore District Council's supply.

3.1.3 With regard to wastewater, Justin Ralston advised the existing dwellings and buildings on the site discharge wastewater to ground via traditional septic tank and disposal field systems. He is satisfied, with a density of one dwelling per hectare there would be a satisfactory amount of unencumbered land remaining for modern ground disposal systems to be established for each dwelling, or centrally. For the Light Industrial zone with a rural overlay, depending on the ultimate industrial use, Justin Ralston noted wastewater flows could vary and, while land disposal could be used initially for low flows, long term planning should provide for connection to the Council's wastewater network.

3.1.4 Justin Ralston referred to data from Environment Southland that shows flooding occurs on site when water backs up in the Waikaka Stream and discharge from the upstream catchment cannot be released via the culvert under the adjoining state highway and railway line to the south. He therefore recommended a flood level restriction on the lower part of site to RL 80m and adoption of best practice stormwater controls by way of a "treatment train". That could include individual sites having at source treatment of stormwater runoff with either soft green solutions (such as swales or sand/media filters) together with a system of terraced attenuation and stormwater treatment ponds and wetlands throughout the site.

Fraser Colgrave

3.1.5 Fraser Colgrave is managing director of Insight Economics with 24 years of experience as an economic consultant. His evidence, dated 7 October 2024, focusses on the likely economic costs and benefits of enabling a small number of targeted non-residential activities to gradually establish over time.

3.1.6 The key findings of the assessment of Fraser Colgrave are that:

(a) Agriculture, and the various industries that support it, is vital to the Gore district economy. In the year ended March 2023, it accounted for nearly a quarter of district GDP, compared to only 5% nationally.

(b) Currently, there is a notable lack of industrial land available in the District, including land needed to accommodate ongoing growth in associated rural industrial activity.

(c) The Matura Milk Valley Plant opposite the subject site consumed the last developable industrial land in the District, with recent work completed for the

District Plan review indicating that 100 to 172 hectares of additional land will be needed to meet future growth.

(e) The proposal seeks to address this acute shortage by providing a material boost in rural industrial land supply, including the provision of larger lots generally not available elsewhere.

(f) The main economic costs of the proposal relative to the current farming use relate to foregone rural production, and infrastructure servicing cost, although economic costs to the Council and community can be offset through financial and/or development contributions and targeted rates.

(g) The key economic benefits of the proposal relative to the status quo are:

- Boost in future industrial land supply, particularly larger lots suited to rural industrial uses
- Supporting the ongoing growth of agriculture and other key economic sectors
- Leveraging the site's locational advantages, including potential synergies with other land uses
- One-off economic impacts of construction
- Ongoing economic impacts of new industrial activity sustained onsite
- Enabling the land to be put to higher and better uses

Jason Bartlett

3.1.7 Jason Bartlett is a traffic and transportation engineer consultant with over 25 years of experience. In a statement of evidence dated 7 October 2024 he concluded that at average traffic generation rates the requested zoning can be accommodated within the road network, with some intersection improvements at the intersection of McKinnon Road with SH1.

3.1.8 Modelling undertaken by Jason Bartlett suggested that provision for the Light Industrial Zone activities proposed should include:

(a) A buffer or screen on or near the State Highway 1 boundary;

(b) Upgrade the left turn treatment from SH1 to McKinnon Road;

(c) A traffic assessment undertaken prior to more than 30% of the of McNab Precinct being developed; and

(d) A further traffic assessment undertaken prior to more than 55% of the McNab Precinct being developed.

3.1.9 Jason Bartlett is of the view that the proposed rezoning will have noticeable transport effects because of additional traffic within the road network. However, with an upgrade of the left turn at the State highway intersection he is confident that effects will be appropriately managed initially. He did acknowledge however, this transport effect would require further assessment as development took place.

Christine McMillan

3.1.10 Christine McMillan is a planner at Bonisch Consultants with over 17 years of experience. Her statement of evidence dated 7 October 2024 focused on the amended zoning request that showed a development potential of 42 rural lifestyle lots and 77 lots in the Light Industrial Zone. To support this amended rezoning Christine McMillan highlighted additional provisions and amendments to notified provisions as follows:

(a) Adding a new Objective LIZ-PREC3-O1 and a new Policy LIZ-PREC3-P1;

(b) Amending LIZ Permitted activities standards to restrict industrial activities within the McNab Precinct and adding LIZ-R5 Rural Industry to the permitted activities within the Precinct;

(c) Adding Standard LIZ-S11 to control effects on the State highway for activities within the McNab Precinct;

(d) Adding a new Policy RLZ-P10 to Rural Lifestyle Chapter relating to the Mahinga Kai Overlay and adding a new non-complying activity status to activities or structures within this area;

(e) Amending Policy MPS-P2(4) to add health facilities to the supported activities;

(f) Amending the permitted activity rules to allow new buildings or structures within the Te Ika Rama Marae site including educational and health facilities; and

(g) Amending Standards MPZ-S4 and MPZ-S6 to allow buildings within reduced setbacks and increased building coverage over the site.

3.1.11 Christine McMillan noted the McNab site was mapped within the "Gore District Ready For Tomorrow Spatial Plan" as suitable for industrial zoning. However, as set out in the s32 Report released when the PDP was notified, due to requirements to undertake additional consultation with Hokonui Rūnanga and undertake a study of the demand and land constraints of the site, the industrial zoning on the site did not proceed.

3.1.12 The evidence of Christine McMillan included a comprehensive assessment under RMA s32AA. It was her view that the proposed Light Industrial Zone with a Rural Industry Overlay is the most appropriate method of achieving the objectives of the Gore PDP Strategic Direction Chapter, in particular UFD-O9 and UFD-O10. In reaching that view she relied in part on the economic assessment undertaken by Fraser Colgrave.

3.1.13 Christine McMillan noted approximately 17 ha of General Rural Zone land as notified is proposed to be rezoned as Rural Lifestyle. She considered the stream that runs through the site, generally from north to south, provides a more appropriate boundary for the RLZ land. She also noted the southern portion of the RLZ is proposed to include a Mahinga Kai overlay which comprises approximately 10 ha of the site and includes the stream and its margins.

3.1.14 Christine McMillan considered the extended RLZ zoning and Mahinga Kai overlay to be in general accordance with the objectives of the RLZ, in particular RLZ-O2 which seeks the integration with the natural and rural character of the area and responds to the underlying Ngāi Tahu relationship with the natural environment. She also considered extending the RLZ zoning to be in accordance with the objectives of the Strategic Direction chapter in particular:

- UFD-O2 providing sufficient land to meet the short, medium and long term housing demand for the District;
- UFD-O3 providing for a variety of housing types and sizes across the District; and
- UFD-O12 in provision of a rural lifestyle area adjacent to Gore.

3.1.15 Christine McMillan explained shifting the Te Ika Rama Marae from its current location at 6 McKinnon Road to the area proposed to be zoned MPZ was being promoted because of the flood risk at the current site.

3.1.16 Christine McMillan supported the inclusion of the recommendations of Jason Bartlett as rules within the PDP to manage any adverse effects on traffic. In particular, she

noted the need for traffic assessments to be undertaken when development reaches 35% and 55% respectively to assess any specific intersection improvements required at the Talbot St and McKinnon Road intersection and any requirement for an alternative site access.

3.1.17 Christine McMillan acknowledged that any subdivision to create additional lots within the Gore District requires consideration of servicing provisions as a matter for discretion. She considered, based on the assessments undertaken by Justin Ralston and the requirement within the PDP to assess suitability of servicing, that the site will be able to be adequately serviced.

3.1.18 Environment Southland in response to inquiries from Christine McMillan made recommendations on floor level of buildings within the flood hazard area. She considered these appropriate and noted they would be considered at the time of subdivision or building consent for any activities on the site.

3.1.19 Referring to the National Policy Statement for Highly Productive Land (NPSHPL) Christine McMillan stated the site is mapped as LUC 2 land on the Manaaki Whenua Landcare website and is considered highly productive in the context of the NPSHPL. She noted however, that as the land is identified in the Gore Spatial Plan for future urban development, it is exempt from consideration under the NPSHPL as set out in clause 3.5(7)(b)(i).

3.1.20 Christine McMillan considered the rezoning sought to be compatible with the National Policy Statement on Urban Development (NPSUD) in that:

(a) The site represents a significant development opportunity on the outskirts of Gore and in co-location with existing industrial activities which serve, and are, served by the rural community.

(b) The rezoning as proposed has taken into account the principles of the Treaty of Waitangi, through development of the zone plan in conjunction with Hokonui Rūnanga, enabling the relocation of the marae and wharenui and enabling the establishment of the Mahinga Kai overlay.

3.1.21 Christine McMillan noted the primary relevant objectives and policies of the Southland Regional Policy Statement in relation to the proposed rezoning are Objectives RURAL1 and RURAL.2 and the supporting Policies RURAL.1, RURAL.2 and RURAL.4 to RURAL.6. In her view these objectives and policies generally seek to manage development of the rural land resource in a manner that achieves sustainable development, considers the amenity of the rural environment, the potential for loss of highly productive soils and provides for development to enable people and communities to provide for their social, economic and cultural well-being. It is her view the proposed zoning and associated provisions are generally consistent with the relevant objectives and policies of the RPS.

3.1.22 She also referred to Te Tangi a Tauira that is the Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008, expressing the view that the zoning as proposed is broadly consistent with the policy direction of that document.

3.1.23 In the context of Part 2 of the RMA, Christine McMillan considered proposed objective LIZ-PREC3-O1 and the zoning proposed over the site is the most appropriate way to achieve the purpose of RMA s5 while also recognising and providing for the relevant matters of national importance in s6 and noting other matters in s7 have been given particular regard.

3.1.24 It was the view of Christine McMillan that the evidence of Jason Bartlett responds appropriately to the further submission of NZTA.

3.2 New Zealand Transport Agency Evidence

Helen Dempster

3.2.1 Helen Dempster is a Principal Planner at NZTA, with 20 years planning experience in both New Zealand and England. She provided written evidence dated 31 October 2024.

3.2.2 As a preliminary matter Helen Dempster referred to the amended rezoning proposed in the evidence of Christine McMillan dated 7 October, stating NZTA is not opposed to the changes in zoning sought. However, she acknowledged there was an issue with regard to "scope" but advised that NZTA did not wish to comment on that.

3.2.3 In response to changes sought to the provisions of the Light Industrial Zone in the evidence of Christine McMillan, Helen Dempster sought the following:

(a) Strengthening LIZ-S11(1) that requires construction and maintenance of a buffer or screen adjacent to State highway 1 to prevent glare nuisance to highway users while ensuring there is no shading of the highway carriageway from May to September.

(b) Amending LIZ-S11(2) to require construction of a separated left turn lane from State highway 1 to McKinnon Road.

(c) Amending LIZ-S11(3) and (4) to require the proposed traffic assessments to be completed by an appropriate expert, include consultation with NZTA, submitted to the Council and implementation of required upgrades to the State highway intersection.

3.3 Gore District Council S42A Report and Other Reports

3.3.1 The authors of the s42A Report are as follows:

(a) Victoria Woodbridge, a Principal Planner at The Property Group with over 15 years of experience in planning and resource management, who focused on the rural and industrial rezoning and amendments to General Rural Zone, Rural Lifestyle Zone and Light Industrial Zone.

(b) Courtney Bennett, a senior advisor and director of Kete Planning Consultancy with 10 years' experience in planning and resource management specialising in kaupapa Māori environmental planning matters. She focused on the relocation of the Māori Purpose Zone and amendments to that Chapter and provision of a Mahinga Kai Overlay.

3.3.2 The s42A Report contained a number of attachments as follows:

- Recommended changes to the PDP provisions in various chapters
- Recommendations on submissions
- Two options of amendments to the Plan Maps (zoning)
- The full submission of MML
- A s32AA Assessment
- A Transportation Review
- A Flooding Assessment

Transportation Review

3.3.3 This review, dated 6 November 2024, was prepared by Abley Consultants, authored by Logan Copland, Senior Transportation Planner, and reviewed by Dave Smith, Technical Director. It considers the transport related effects arising from development of the land as contained in the MML submission. The review did not consider the plan submitted in the MML evidence because of advice from Victoria Woodbridge to the effect that the evidence plan is outside of the scope of the original MML submission.

3.3.4 Firstly, the review opposed any new intersection from SH1 directly opposite Ballast Road, because:

- The sight distance to the east is short of the minimums required in Austroads due to a crest in SH1, and
- Introducing a fourth leg to the intersection would create an additional conflict point where there is already expected to be a notable amount of turning activity by heavy vehicles. This would require a speed limit reduction (maximum of 80k/h) and installation of a new roundabout.

3.3.5 Arising from the review the following recommendations were made:

(a) The SH1 / McKinnon intersection should be upgraded to include a channelised left turn lane and confirm the existing right turn lane is in accordance with CHR requirements prior to any development on the 10 ha site.

(b) Should further development be undertaken on the site beyond the 10 ha in the submission, further upgrades may be required.

(c) The left turn lane from SH1 into McKinnon Road should be designed to substantially reduce the speed of turning vehicles, minimising the potential for conflict with vehicles turning into or out of Talbot Street.

(d) A potential new intersection at the current elbow in McKinnon Road should give priority to traffic entering and exiting the rezoning site. This improves sight distances and would provide the safest outcome.

(e) NZTA as the road controlling authority for SH1 should be consulted to ensure their maintenance programme would eliminate the potential for vegetation to obscure the view of vehicles turning into / out of McKinnon Road.

(f) Additional assessment is required to understand the potential effects on Wentworth Road and Talbot Road.

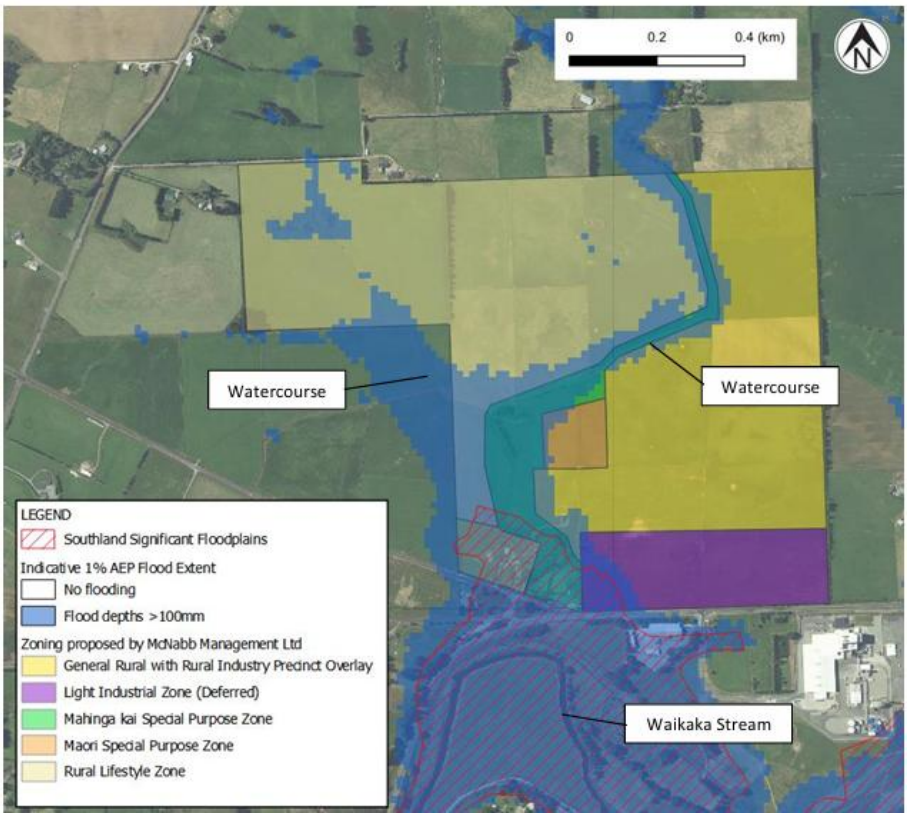
(g) Noting that the development is within cycling distance of Gore, any opportunities to provide safer environment for cycling to the site (such as reducing vehicle speeds) would support mode choice. However, the provision of dedicated cycle facilities between the site and Gore is not required to support the development.

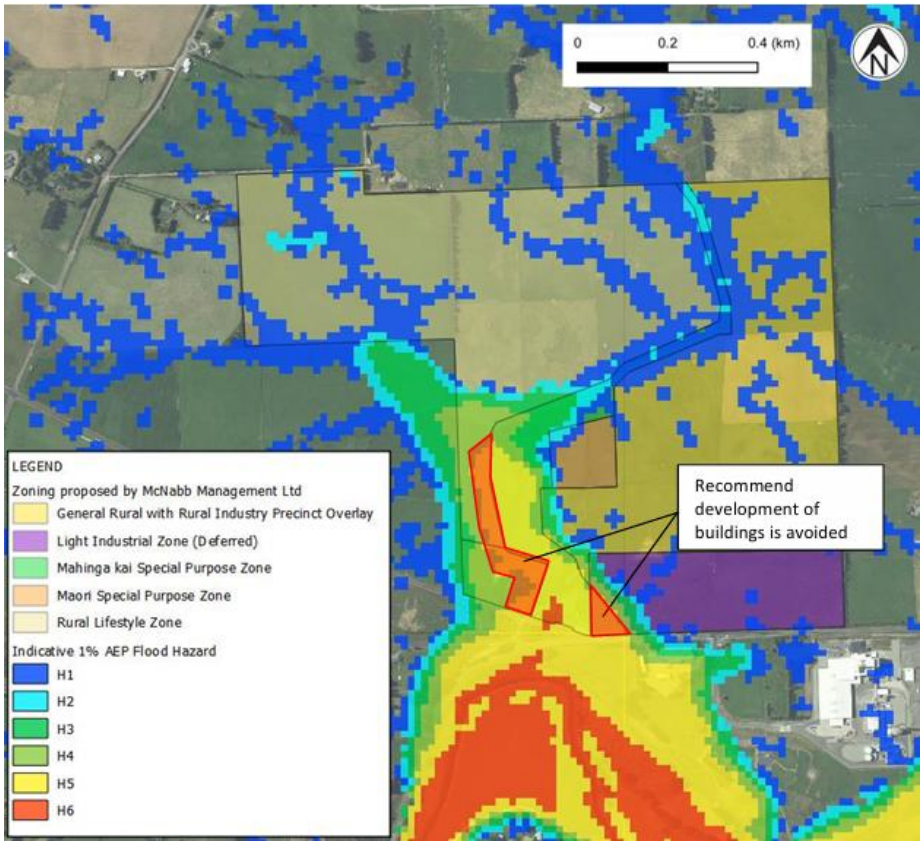
Flooding Assessment

3.3.6 This Assessment, dated 18 July 2024, was prepared by Richard Brunton, Water Resource Engineer Tonkin and Taylor Ltd, and authorised by Tim Morris, Project Director. The figure below shows a map of the zoning proposed, ES floodplain layers and indicative flood extents from T+T's flood model.

3.3.7 Tonkin and Taylor modelled flood extent, as shown below, also suggests part of the land subject to the rezoning, is likely to meet the significant risk definition, as that definition is described in Decision 44. Indicative flood depths within southwest areas

of the proposed zoning areas are in the order of 2 to 3 m. Indicative flood depths in the proposed Zones along the two small watercourses are generally less than 1 m.





3.3.8 Tonkin and Taylor recommend that the development of buildings is avoided within southwest areas of the proposed zoning, which are potentially subject to high flood

hazard. Other industrial activities could take place in these areas provided they do not have an adverse effect on surrounding flooding.

Section 42A Report

3.3.9 The Report commenced with an overview of the following:

- RMA sections 74, 75 and 32
- National Policy Statement on Urban Development 2020
- National Policy Statement on Highly Productive Land
- National Policy Statement for Freshwater Management 2020
- Southland Regional Policy Statement
- RMA s32AA

3.3.10 The Report acknowledged that as the MML site was included within the Spatial Plan in accordance with NPSHPL clause 3.5(7)(b) the Council need not consider the land as highly productive land under the NPSHPL.

3.3.11 With regard to the zoning at McNab, reference was made to the following extract from the s32 Report prepared for notification of the PDP:

> This area was revisited for potential industrial zoning at the request of the Gore District Plan Review sub-committee. Consideration was given to a range of options for zone locations and types as well as an option for a rural industry precinct.
>
> The further analysis included additional engagement with the Hokonui Rūnanga Kaupapa Taiao, a study of demand, land constraints and issues and options. However, it was determined that due to the additional work required and concerns over adverse effects on cultural values the draft District Plan (DDP) General Rural Zone would be retained in this area.

3.3.12 In addition to the technical reports on traffic and flooding hazard, the Report noted that in 2022 Council commissioned Hokonui Rūnanga Kaupapa Taiao to undertake an Āpiti Hono Tātai Hono assessment as part of the Gore District Plan Review. This type of assessment provides information on the relationship mana whenua hold with locations within the District and provides guidance in accordance with tikanga and mātauranga on what types of activities may or may not be appropriate in specific areas, based on their impacts on these relationships. The McNab area was assessed as part of this work, which provided specific information on the cultural relationship mana whenua hold with the area and recommendations on the activities that would be culturally appropriate in this location.

3.3.13 The resulting Ngā Hua o Āpiti Hono Tātai Hono report stated the following about the McNab area:

> This area is only appropriate for development that can be undertaken in a way that responds to the way water flows through the site, and is sensitive to the existence and functioning of O Te Ika Rama Marae. It is also potentially appropriate for development that does not further disconnect this location from the wider landscape, or create negative impacts on the wider O Te Ika Rama Māori Purpose Zone [sic]. Activities that are loud, produce offensive odour, radically alter the rural amenity, or create health and safety risks for marae visitors would not be appropriate in areas in close proximity to the Māori Purpose Zone. Any development or activities would be encouraged to be undertaken in ways that increase the amount of indigenous planting within the area, ensure run-off or dust discharges do not enter streams or the air, and preserve viewshafts to and between landforms of significance. If development was to occur, it would be strongly advised that

urban design interventions and naming conventions be used to recognise and celebrate the wider cultural landscape that this area sits within. Special care would also need to be taken to protect and enhance the Waikaka stream."

3.3.14 The Ngā Hua o Āpiti Hono Tātai Hono report also provided a detailed list of recommended management considerations for McNab.

3.3.15 In assessing the rezonings set out in the MML evidence, the authors expressed the view that the increased Light Industrial Zone is likely to be outside the scope of the original submission and creates natural justice issues as no other person has had the opportunity to further submit on the proposed zoning. In particular, landowners directly adjoining 10 McKinnon Road and those located to the south of McKinnon Road near to where the new access road is proposed have not had the opportunity to review and further submit on the submission if they wish to do so.

3.3.16 The Report also considered that the change in character, essentially from rural with low density development and large setbacks, to urban with the potential to be developed to a high density for a range of light industrial activities, showed effects from the modified approach that were out of scope of the original submission. This was reinforced, said the authors, by the range of activities sought for the McNab LIZ Zone and the relaxation in the Standards from what would apply under the notified PDP provisions.

3.3.17 The Report referred to the definition of Rural Industry as defined in the PDP and National Planning Standards as "means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production." As the LIZ is an urban zone the authors did not consider Rural Industry is appropriate in the zone.

3.3.18 The Report was critical of the range of options considered by Christine McMillan in considering s32 matters, referring to a further option preferred by the authors, as shown below:

3.3.19 It is the view of the authors this would provide for the outcomes sought by MML, remove the issue of scope and retain the rural character amenity values. The 2ha area

adjacent to McKinnon Road was recommended as RLZ because it would otherwise be a spot zone surrounded by Rural Lifestyle Zone and is subject to flooding.

3.3.20 The Report supports the relocation of the Te Ika Rama Marae Maori Purpose Zone, subject to confirmation this is acceptable to the Hokonui Runanga. There was concern expressed however with the list of activities permitted in the Zone, as these went beyond those included in the original submission.

3.3.21 An overview was also given of the technical reports provided by MML and those attached to the s42A Report. The opinions of the s42A authors arising from this overview include:

- In relation to the traffic effects of the proposed zoning, a GRUZ would likely have lower traffic effects as a result of larger lot sizes and greater limits on activities. A LIZ, which provides for higher density development and activities which may have higher trip generation is likely to have greater impacts on traffic safety in the vicinity of the site.
- Key take aways from Fraser Colgrave's economic report are the need for larger lots and land for rural industry. It's unclear whether Fraser Colgrave has taken account of the Mataura Rural Industry Precinct which covers approximately 238 hectares of land.
- It is also unclear from Fraser Colgrave's report how there is an economic justification for 44.3ha of light industrial zone when the report identifies a need for larger land area for rural industry. There appears a somewhat confused correlation between larger lot rural industry development and what has been proposed in terms of an urban Light Industrial zoning.
- While there are options for how servicing can be achieved onsite it is unclear whether connections to Council's reticulated network would be economically viable and how this would work in practice through development in terms of funding upgrades. Higher density development is likely to be limited where onsite servicing solutions are necessary and it may not be desirable from an environmental and cultural values perspective to have high levels of onsite wastewater discharge. However, these appear to be issues that could be worked through during development. Limiting the density of development is likely to be more appropriate given servicing constraints. That is consistent with only a small area of urban (light industrial zoning) with a higher proportion of lower density 'rural' development.
- The flooding assessment reinforces the desirability of relocating the Maori Purpose Zone.
- The modelling does not support the 2ha Light Industrial area and the full comments from Environment Southland from the consultation undertaken state "Environment Southland's preference would be for the proposed transport yard to be located on flood free land". As a consequence, this land is recommended to be included in the Rural Lifestyle Zone.

3.3.22 By way of conclusion, the Report states:

- Notwithstanding the issue of scope in relation to the Light Industrial zoning we consider that there is likely to be benefit to the district in providing some additional land for rural industry and light industrial activities.
- However, overall we can find no clear justification for providing 44.3ha of Light Industrial Zone. As highlighted above rural industry, by virtue of its definition is not appropriate within a Light Industrial Zone, therefore, providing for a General Rural Zone with a Rural Industry

Precinct, would in our view more successfully provide for the outcomes the submitter is seeking in terms of activities.

3.3.23 The recommendations of the authors in the Report were:

(a) The relocation of Te Ika Rama Marae MPZ is accepted subject to a letter of support from Hokonui Rūnanga Inc.

(b) The Mahinga Kai Overlay as shown on the evidence plan is rejected, but the stream it covers is listed in Appendix 3 of the PDP.

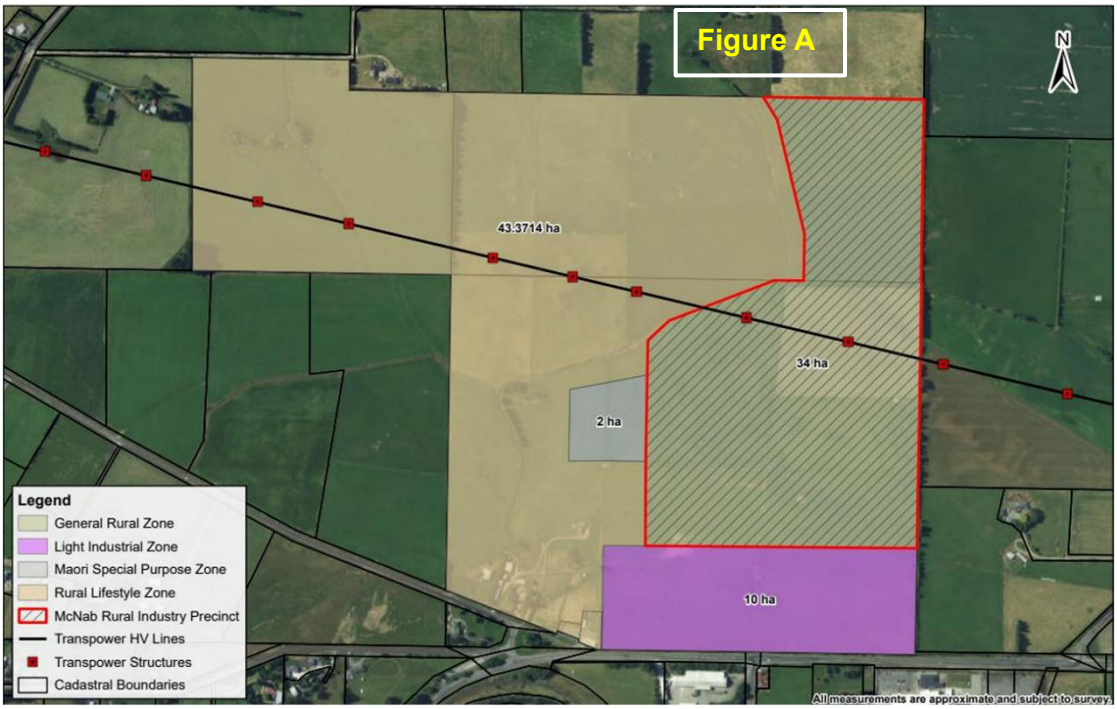
(c) The Light Industrial Zone as shown on evidence plan and submission plan is rejected.

(d) Additional Rural Lifestyle Zone is accepted.

(e) A Rural Industry Precinct (PREC15) as shown on the submission plan is accepted in part

(f) Retain the Rural Lifestyle Zone in accordance with the notified PDP.

3.3.24 The Report ends with an acknowledgment that the underlying zone of General Rural with a Rural Industry Precinct may limit future subdivision potential as the PDP requires consent as a non-complying activity for creating allotments which are less than an 8ha. Arising from that the authors suggest that if MML is able to reconcile a LIZ with the Ngā Hua o Āpiti Hono Tātai Hono Assessment recommendations and considerations, then as an alternative the area shown as Light Industrial on the submission plan may be appropriate, although this is not their recommended approach at this stage. The following zoning was considered by the authors as an alternative:



3.4 Rebuttal Evidence of MML

Terence Nicholas

3.4.1 Terry Nicolas is General Manager of Hokonui Rūnanga Incorporated and the representative of Hokonui Rūnanga on the board of Te Rūnanga o Ngāi Tahu, positions he has held since 1999. He is also a Director of McNab Management Limited.

3.4.2 Terry Nicholas in written evidence advised the Panel Hokonui Rūnanga is in a joint venture with the McKinnon LP and McNab Investments Limited, a sister company of Road Transport Logistics Limited, for the rezoning and development of the Site.

3.4.3 Terry Nicolas set out that the O Te Ika Rama Marae is currently on land owned by the Hokonui Runanga and, as it is flood prone, it requires relocation. The Hokonui Runanga supports the relocation and the establishment of the Mahinga Kai Overlay. He said in relation to the remaining rezoning relief sought, Hokonui Rūnanga supports the outcomes sought in the evidence filed on behalf of McNab and considers that together with the enablement of the Marae, the relief sought is consistent with Ngāi Tahu cultural values and the aspirations of Hokonui Rūnanga.

3.4.4 With regard to the Āpito Hono Tātai Hono assessment undertaken for the McNab township and the site subject to the MML submission, Terry Nicolas stated that development in the McNab township can be culturally appropriate if the following can be achieved:

(a) development occurs in a way that responds to the way water flows through the site;

(b) development is sensitive to the existence and functioning of the Marae;

(c) development does not further disconnect this location from the wider landscape or create negative impacts on the Māori Purpose Zone;

(d) Activities that are loud, produce offensive odour, radically alter the rural amenity, or create health and safety risks for marae visitors would not be appropriate in close proximity to the Māori Purpose Zone;

(e) Run-off and dust discharges do not enter streams or the air; and

(f) Viewshafts to and between landforms of significance are preserved.

3.4.5 It is the view of Terry Nicolas that the proposed rezoning has been designed to ensure consistency with the findings in the Āpiti Hono Tātai Hono assessment report.

Justin Ralston

3.4.6 Justin Ralston agreed with the Council Reporting Officer that the options to connect to Council's services can be worked through during the development and staging. He wished however to provide additional information on the various options for water and wastewater servicing options, summarised as follows:

Wastewater	Connect to Council Network	$1.67m
	Individual On-Site Disposal	$2.725m - $3.36m
	Centralised On-Site Treatment	$3.27m
Water	Connect to Council Network	$0.9m
	On-Site Supply	$1.5m
	Individual storage tanks required.	
	Roof water or reuse could be investigated.	

3.4.7 It was the conclusion of Jason Ralston that ultimately connecting to Council's systems is viable and limits on the density of the development should not be placed on the rezoning due to servicing constraints.

Jason Bartlett

3.4.8 Jason Bartlett advised:

- The maximum delay time of queuing at the McKinnon Road intersection with SH1, as a result of full development of the site in accordance with the requested zoning, will be approximately 20 seconds. This suggests using SH1 between McKinnon Road and Gore town centre will be the quickest travel route. Overall, it is possible that some development traffic may use alternative traffic routes but no upgrading of these routes is required.
- Based on modelling it is not necessary to amend the existing marked right turn bay. I consider that no changes or upgrades are required to the existing right turn bay (turn treatment) from SH1 to McKinnon Road.

3.4.9 Jason Bartlett also reviewed the amendments to the Plan provisions recommended by Christine McMillian in her Rebuttal Evidence. He agreed with these recommended changes.

Christine McMillan

3.4.10 Christine McMillan proposed a number of changes to her recommended Plan provisions included in her evidence-in-chief in response to matters raised by NZTA and in the s42A Report.

3.4.11 Arising from the s42A Report the response of Christine McMillan was as follows:

(a) Fundamentally I don't consider the enabled activities or ultimate environmental outcomes resulting between my recommended approach compared to that of the s42a report are significantly different – what is different is whether an underlying rural or urban zone is utilised as a method to deliver those.

(b) I consider that the LIZ with McNab Precinct overlay is a more appropriate zone for the activities proposed than GRUZ with McNab Precinct overlay;

(c) I do not agree that rural industry is fundamentally inconsistent with the light industrial zone;

(d) I consider that providing an underlying General Rural Zone may result in the rural industrial development or subdivision of the site being unable to proceed should the site continue to be mapped as highly productive land under the NPSHPL.

(e) I consider my recommended amendments to the McNab provisions as set out in the revised provisions list attached are appropriate and effective in enabling rural industry and limited light industrial activities within the Precinct;

(f) I consider the Mahinga Kai overlay to be the most appropriate method of protecting cultural values in conjunction with the relocated Māori Special Purpose Zone and giving effect to the Āpiti Hono Tā Tai Hono Assessment.

3.4.12 Overall, Christine McMillan considered that the amended provisions and zoning as shown on the plan submitted with her evidence will be efficient and effective in achieving the purpose of the RMA and the relevant objectives of the PDP.

3.5 Gore District Council Addendum to S42A Report

3.5.1 Victoria Woodbridge and Courtney Bennett provided further commentary arising from the rebuttal evidence of MML and evidence of NZTA, noting:

- Given the rebuttal evidence of Terry Nicholas, the relocation of the Te Ika Rama Marae MPZ is now supported.
- Subject to resolution of scope issues, amendments now sought by MML to the provisions of the MPZ are supported.

- Given the evidence of Terry Nicholas that the rezoning proposed is consistent with the Ngā Hua o Āpiti Hono Tātai Hono report, their recommendation is to provide for the 10ha LIZ area and adopt the zoning shown on Figure A at paragraph 3.3.24 above. They also recommended consideration is given to including new provisions for setbacks and landscape screening / buffer in the LIZ on sites adjacent to the existing marae location to reflect that the LIZ have be given effect to before O Te Ika Rama Marae is actually moved.

3.6 Legal Submissions to December 2024 Hearing

Joshua Leckie, Counsel for MML

3.6.1 Joshua Leckie submitted MML, Council and NZTA are largely agreed on the appropriate outcomes for the site in terms of enabling rural industry and relocating the existing Marae. In his view, the point of difference relates more to the methods to achieve these outcomes.

3.6.2 Joshua Leckie addressed the issue of scope, submitting:

- The Courts (*Vivid Holdings)* have established that for an amendment to be considered within scope of a submission, the amendment must be fairly and reasonably within the general scope of an original submission, the proposed change as notified; or somewhere in between.
- The question of whether an amendment sought goes beyond what is reasonably and fairly raised in submissions will usually be a question of degree, to be judged by the terms of the proposed change and the content of submissions. (*Countdown v DCC*). This should be approached in a realistic workable fashion rather than from the perspective of legal nicety, (*Gertrude Saddlery Ltd v QLDC*) with consideration of the whole relief package detailed in submissions. (General Distributers Ltd v Waipa DC).
- In applying the above, the Court in *Motiti Avocados Ltd v Minister of Local Government* considered that the fact that the relief sought on appeal was not explicitly raised in a submission or further submission was not determinative. The test is whether the matter was "reasonably and fairly" raised in the submission, which should not be approached with a legalistic or pedantic view, but in a realistic workable fashion. The Court held that while the relief sought relating to a Hapu Management Plan had not appeared until late in the hearing, it was clearly related to issues that had been broadly raised in earlier submissions relating to tangata mana and tangata whenua such that it was within scope.
- Another way to consider the issue is whether the amendment in question can be said to be a "foreseeable consequence" of the relief sought in a submission. It has been confirmed by the Court that the scope to change a plan is not limited by the words of the submission. (*Westfield NZ Ltd v Hamilton CC*). Consequently, changes that are incidental to, consequential upon or directly connected to the submission are to be considered in scope.

3.6.3 Joshua Leckie referred to the following changes sought by MML and set out the reasons why he considered these in scope:

(a) Extension of Rural Lifestyle Zone

(i) The amended relief extends this to include an additional 9.3 ha of land to the south of the original submission. The additional land includes the site of the existing marae and the area of land that was originally sought to be rezoned Mahinga Kai Special Purpose Zone in McNab's submission. The additional land to be rezoned Rural

Lifestyle Zone sits entirely within land owned by McNab entities and only two external boundaries are impacted.

(ii) The rezoning of additional land to Rural Lifestyle Zone is a consequential amendment arising from minor adjustments to the zoning package, including introducing the Mahinga Kai overlay. In terms of the effect of the activities enabled, the Rural Lifestyle Zone would generally be less enabling compared to the activities enabled in the Mahinga Kai Special Purpose Zone.

(iii) Further, the extension of the notified Rural Lifestyle Zone was raised in McNab's original submission, which sought to include additional land on the eastern side of the site within the Rural Lifestyle Zone. While the evidence version of relief seeks an additional 9.3ha of land to be zoned Rural Lifestyle Zone, we consider this type of rezoning was fairly and reasonably raised in McNab's original submission. The additional 9.3ha of land is internal to the Site and the only external boundary impacted is the existing marae location. We therefore consider no neighbouring properties will be impacted by a rezoning to Rural Lifestyle Zone.

(b) Māori Special Purpose Zone

The proposed new location for the Māori Special Purpose Zone is in an identical location as sought in McNab's original submission. The proposed amendments to the Māori Purpose Zone provisions to provide for education and health facilities as a permitted activity was also raised in McNab's original submission. Accordingly, we consider the proposed rezoning to Māori Special Purpose Zone is entirely within scope.

(c) Mahinga Kai Overlay

The original submission sought a Mahinga Kai Special Purpose Zone over the same area as the overlay now being sought, for the purpose of providing protection to the waterbody that traverses the Site. A Mahinga Kai Overlay is an alternative spatial planning tool that achieves the same outcome as a Mahinga Kai Special Purpose zoning would, without having to create an additional Special Purpose Zone, which Council did not support. Accordingly, we submit that this amended relief was raised in McNab's original submission and is entirely within scope.

(d) Light Industrial Zone with a McNab Precinct Overlay

The original submission sought a Deferred Light Industrial zoning for a 10 ha section of the Site adjacent to State Highway 1 and a Rural Industry Precinct Overlay over an additional 34ha. The amended relief seeks a live zoning and to extend the Light Industrial Zoning over a similar footprint (44.8 ha). Considered together, there is no change to those locations from the original submission. The change is to the methods.

The relief now being sought achieves a more targeted response to the rural yet quasi-industrial environment that the Site is located in and provides for industry supporting the rural zone in a more focused way. To achieve that the McNab Precinct Overlay over the entirety of that Light Industrial Zoning will restrict activities on the Site to those of a rural industry/light industrial nature. This will better provide for the rural industrial nature of the Site and surrounding area but better integrate with the broader structure of the PDP. In our view, this is entirely within scope of the original submission as the location of the zones have not changed and the submission zoning would have allowed for similar types of activities that McNab is now seeking to establish in the McNab Precinct.

In some instances, less activities are enabled than the submission version. For example the submission version allowed for some "Industrial" (as defined) activities whereas the amended relief does not. In terms of density, the amended relief has been further aligned following feedback from Council with the anticipated environment originally sought through the introduction of a 1ha minimum lot size in the McNab Precinct. This will ensure a "perirural" environment is retained.

Accordingly, we submit that the issue of rural industry activities establishing on the site that support the surrounding rural area of the scale anticipated was reasonably and fairly raised in McNab's original submission, and the amended relief is entirely within scope.

(e) Live zoning versus deferred zoning

The fact that a live zoning is now sought rather than a deferred zoning is within scope as a deferred industrial zone would have changed the nature of the Site regardless of what zoning enabled it. The change to a live zoning was made in response to counsel for the Council's concern that the National Planning Standards 2019 does not provide for a deferred zoning.

Instead of a deferred approach, the rule package now contains "triggers" to manage future development of the Site. We submit that McNab's original submission reasonably and fairly raised the issue of a Light Industrial Zone being established on the site.

3.6.4 With regard to s32AA Joshua Leckie submitted:

> Ms McMillan has completed a thorough section 32AA analysis on the amended rezoning relief sought, which is contained in her evidence in chief.
>
> In our submission, and on reliance on the evidence of Ms McMillan, the relief sought by McNab should be preferred in a section 32 sense as the methods better achieve the objectives of the PDP and the purpose of the RMA.

3.6.5 Joshua Leckie noted the MML site is identified in the "Ready for Tomorrow – Gore Spatial Plan" as a future industrial area but this zoning was not carried over into the notified PDP as the Council was concerned that the required studies in relation to demand and constraints had not been undertaken, and the potential for adverse effects on cultural values required additional consultation with Hokonui Rūnanga. He further noted appropriate studies had now been undertaken and Terry Nicholas of the Hokonui Rūnanga has confirmed that the proposed rezoning is appropriate from a cultural perspective. It was his submission:

> In this instance the Spatial Plan warrants material weight from the Panel despite not being a statutory planning document under the RMA. It is a policy developed by Council after carrying out special consultative processes under section 83 of the Local Government Act 2002. As part of the special consultative process, the Spatial Plan was publicly notified across the Gore District, and public submissions were made and heard. The Spatial Plan was then adopted by the full Council as setting its 30-year vision for the Gore District.
>
> Accordingly, we submit that the Spatial Plan is relevant to your decision making on the PDP under Schedule 1, Clause 10(2)(b)(ii). The proposed rezoning achieves the vision set out in the Spatial Plan.

3.6.6 With regard to the National Policy Statement for Highly Productive Land, Joshua Leckie noted there is agreement that this does not apply at this time given the content of the Gore Spatial Plan which, because the land is identified for industrial use, deems the land suitable for urban growth. His concern is however that the Spatial Plan only sets out a ten year strategy for the period between 2020-2030, and there is no guarantee that the Site will be retained as a future urban area in any future spatial planning document. If the Site were no longer identified as a future urban area in a spatial planning document, there is a risk that an underlying rural zoning would trigger the provisions of the NPSHPL that have the effect of restricting development of the Site due to the presence of LUC3 soils. It was his submission:

> The NPS-HPL would not be triggered if the Site had an underlying urban zoning as urban zones cannot be mapped as highly productive land. In light of the above, we submit that a modified urban zoning such as the Light Industrial with McNab Precinct zoning recommended by Ms McMillan in her rebuttal evidence is more appropriate compared to

the General Rural zoning proposed by the Reporting Officers. Both the Council and McNab agree that rural industry activities is appropriate for the Site. The rezoning sought by McNab would better achieve this outcome in the longer term compared to the zoning put forward by the Reporting Officers.

3.6.7 Joshua Leckie provided an overview of the evidence and changes made in rebuttal evidence of Fraser Colgrave, Christine McMillan, Jason Bartlett and Justin Ralston. He also referred to the evidence of Christine McMillan that the proposed rezoning is generally consistent with the objectives and policies of the Southland RPS.

Shelley Chadwick Counsel for the GDC

3.6.8 It was the view of Shalley Chadwick that the High Court decision *in Albany North Landowners v Auckland Council* is most useful for the Panel to consider, particularly since it is concise and includes all of the relevant principles in the one place. Arising from that she submitted that the following key principles arise from that case:

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

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

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

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

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

3.6.9 Shelley Chadwick also referred to *Friends of Nelson Haven and Tasman Bay Inc v Marlborough District Council*, noting “if forensic examination is needed to work out whether relief on appeal was fairly and reasonably raised, that would tend to signal a lack of scope.”

3.6.10 In applying the case law Shelley Chadwick noted the decisions requested were to amend the zoning for the site as shown in the submission plan; and to amend the GRUZ, RLZ and MPZ as set out in the schedule attached to the submission. She added that there is nothing in the MML submission that requested relief on any LIZ or subdivision provisions or requested the Mahinga Kai overlay described in Ms McMillan's evidence and for these reasons the Panel should be cautious in considering accepting the LIZ, SUB and overlay provision amendments proposed by MML, which may potentially be outside the scope of the original submission.

3.6.11 With regard to the LIZ area shown in the plan attached to Christine McMillan's evidence that is larger than was sought in the submission plan, Shelley Chadwick advised the Council has concerns that these changes may mean that insufficient notice has been provided through the McNab submission:

(a) To potentially interested adjoining landowners to the north and east of the site along the new 44 hectare LIZ boundary; and

(b) To submitters interested more generally in the supply of industrially zoned land in the District, including potentially the owners of land in the proposed new Gore South Industrial zone.

3.6.12 Shelley Chadwick added that above issue does not arise to the same extent in relation to the more minor shifting of zone boundaries which are proposed in Christine McMillan's evidence for areas that are internal to the site, being the changes in the MPZ and RLZ boundaries that are within the land subject to the submission.

3.6.13 With regard to the NPSHPL, Shelley Chadwick submitted that any conjecture that the NPSHPL may (or may not) apply to the Rural Industry Precinct beyond 2030 is not a factor that is particularly relevant for this Panel in making decisions. She submitted that the Panel is constrained to apply the RMA, current national direction and the existing spatial planning documents in the form they are at present.

3.7 Response of MML to Matters Arising from the December 2024 Hearing

3.7.1 Panel Minute 29 invited consideration to be given to incorporating the MML site as a Development Area with an associated Outline Development Plan. The Panel also provided an opportunity for legal counsel to respond to matters arising from the December Hearing.

Joshua Leckie

3.7.2 With regard to the NPSHPL Joshua Leckie referred the Panel to the Environment Court's decision in *Wakatipu Equities Limited v Queenstown Lakes District Council* [2023] NZEnvC 188 where the Environment Court noted that the National Planning Standards 2019 signals that a precinct would tend to sit within the zone that it serves and held that a precinct is not a separate zone for the purposes of the NPSHPL. He stated the same outcome was reached in *Drinnan v Selwyn District Council [2023] NZEnvC 180*. He submitted:

> Accordingly, we submit in reliance on that judicial authority that the introduction of a McNab Rural Industry Precinct with an underlying General Rural zoning will not amount to the Site being "identified for future urban development" for the purposes of the NPS-HPL. The definition of "identified for future urban development" in the NPS-HPL specifically requires the land to be identified for urban growth in a future development strategy or in a strategic planning document. Without one of these strategic planning documents, the carve out for land identified for future urban development in the NPS-HPL would not apply.

3.7.3 At the December 2024 hearing, the Panel queried the enforceability of provisions that provide discretion to a third party not being the Council. Joshua Leckie agreed and cited *Maclean v Thames Coromandel District Council A046/03* where the Planning Tribunal held that a rule that conferred discretion on third parties was invalid. He advised that in response to this Christine McMillan proposed amendments to the relevant rules, which in his view were valid and appropriate.

3.7.4 Joshua Leckie then provided a summary of the evidence of Christine McMillan, highlighting the changes now sought by MML. Of particular note he referred to concerns raised by the Panel and Victoria Woodbridge at the hearing, and advised MML is no longer seeking to provide for Rural Industry activities in the McNab Development Area. Adding, this change is made in response to Victoria Woodbridge's concern that Rural Industry activities, by their definition in the National Planning Standards, can only be undertaken in a "rural environment" and not a Light Industrial zone.

3.7.5 Joshua Leckie advised, as requested by the Panel, that MML consult with NTZA and the Council during the process of drafting amended provisions for the MML land and

that NZTA was supportive of the amended provisions. He highlighted changes made at the request of Victoria Woodbridge and matters still in dispute. Joshua Leckie was satisfied that what was being presented to the Panel was robust and valid. It was his submission that:

> The scale of activities enabled under the light industrial zone in the McNab Development Area is consistent with the scale sought for the McNab Rural Industry Precinct in submissions and in the evidence of Ms McMillan and is therefore squarely within scope.

and

> The supplementary evidence filed by Ms McMillan also demonstrates that the amended relief sought is the most appropriate outcome in a section 32AA sense.

Christine McMillan

3.7.2 In a supplementary statement of evidence dated 24 February 2025, Christine McMillan set out a response to the Minute which included an Outline Development Plan, as shown below. She explained the McNab Development Area includes the same underlying zoning (Rural Lifestyle Zone, Māori Purpose Zone and Light Industrial Zone) promoted at the December hearing with the following differences:

(a) Mahinga Kai Area over the RLZ;

(b) Rural Industry overlay is removed from the LIZ;

(c) Stormwater Management Area and Future Stormwater Management Area that includes the existing O Te Ika Rama Marae

(d) Buffer areas are shown along the interface of the LIZ and the MPZ, RLZ and General Rural Zone (GRUZ) and the interface between the LIZ and State highway 1.

DEV3 – McNab Outline Development Plan

3.7.3 Appended to the supplementary evidence was updated Plan provisions and a detailed s32AA assessment.

3.8 Reply by Gore District Council

Victoria Woodbridge

3.8.1 In Right of Reply planning evidence dated 7 March 2025 Victoria Woodbridge stated she generally supported the approach to using a Development Area to manage how future development is undertaken on the site (as described in the s42A report) and she considered the provisions as submitted on 24 February to be generally more successful in terms of Plan integration than those provided by the submitter previously. She does however continue to have concerns with regard to:

(a) Scope: With the changes sought in the February evidence of Christine McMillan going further than previously. It remains her opinion that an adjoining landowner is unlikely to have conceived of a situation where a General Rural Zone with a rural industry precinct morphed into a Light Industrial Zone with limited light industrial activities enabled, some of which must support primary production.

It remains her opinion that the 10 hectares of Light Industrial Zone proposed by MML in their submission is more appropriate in terms of scale of zone and scope of submission. If MML seeks a greater extent of industrial zoning this could be progressed through a variation or plan change.

(b) Traffic and Roading Requirements: Victoria Woodbridge considers the amended provisions impractical; and unworkable, particularly in relation to the use of trigger points to assess traffic issued and the potential for upgrading of the State highway and other intersections. She would prefer to see adoption of a controlled activity process.

(c) Stormwater Management Area: While Victoria Woodbridge supports excluding development in this area, she notes there are no controls to achieve that.

(d) Policy Direction: Victoria Woodbridge is of the view there is insufficient policy direction to guide development within the area and in relation to subdivision. While she does not have any particular objection to a 1ha minimum lot size she states it does not seem to be an efficient use of urban land.

3.9 S42A Report to Wrap Up Hearing

3.9.1 The Panel received a s42A Report for the Wrap Up Hearing held on 7 April 2025. That report was prepared by Tina Carlson-McColl in collaboration with Matt Heale, Jo Skuse, Mishka Banhidi, Victoria Woodbridge and Courtney Bennett. The Report noted that in response to Minute 29, MML progressed a Development Area Chapter to apply to the site and that approach is accepted in accordance with Victoria Woodbridge's right of reply dated 7 March 2025.

3.9.2 The Report then set out consequential amendments required to the PDP if the Panel accepts the recommendation to apply a Development Area.

3.9.3 In supplementary evidence dated 3 April 2025, Tina Carlson-McColl at paragraphs 15 - 20 advised Victoria Woodbridge has provided the following response to the legal submissions received from McNab Management Ltd.

> Legal Counsel for McNab Management Ltd provided a Memorandum on 21 March 2025 identifying an error with Appendix C of the Section 42A report. The intention of Appendix C was to illustrate the zoning supported by the reporting officer which differs from that sought by the submitter.
>
> The Memorandum confirms the submitter does not wish to pursue the Rural Industry Precinct and this is accepted. This means the consequential amendments to the PDP

recommended at paragraph 168 of the Hearing Stream 12 Section 42A report would not be required.

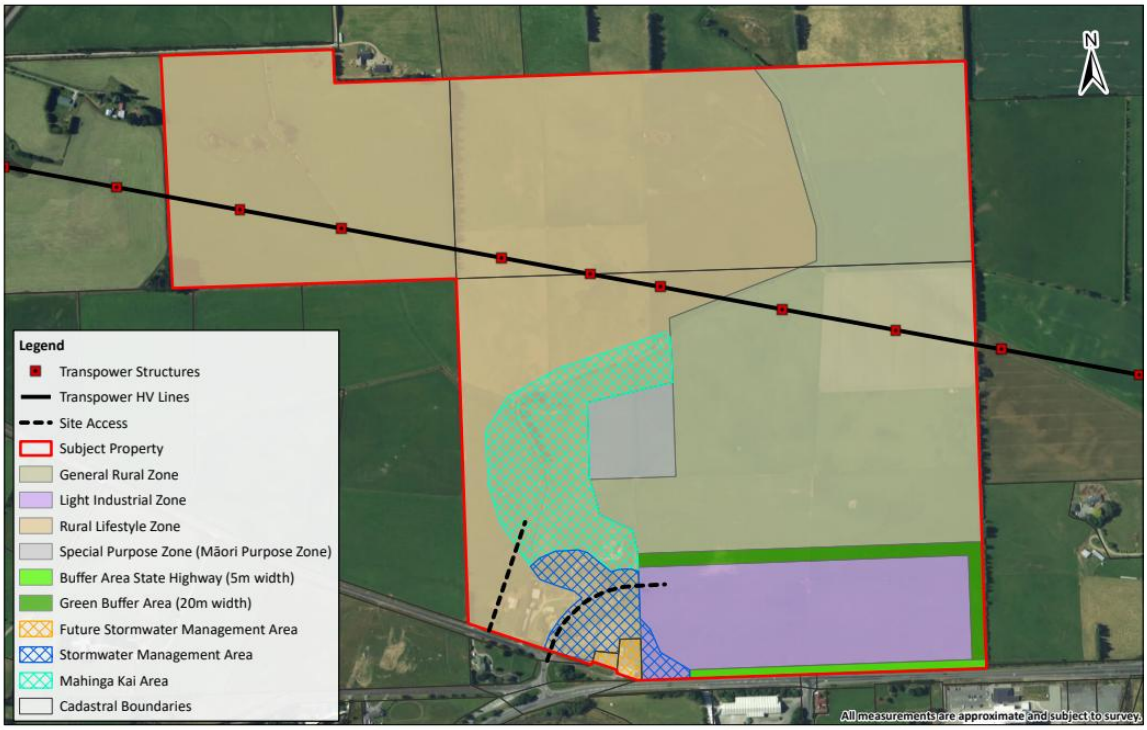
As confirmed in Ms Woodbridge's right of reply dated 7 March 2025 there is general support for a Development Area approach, however, the extent of Light Industrial Zone (LIZ) is not supported.

The Outline Development Plan (ODP) provided by the submitter is accepted in part. However, it does not reflect the extent of zoning recommended by Ms Woodbridge in her Hearing Stream 8 Section 42A report (McNab) and Right of Reply dated 7 March 2025.

Therefore, in order to assist the panel, an amended ODP for the McNab Development Area is provided at Appendix C. This ODP shows the extent of zoning recommended along with some consequential amendments to the landscape buffer. An amendment to the colour of the Māori Purpose Zone (MPZ) is also included to ensure alignment with the National Planning Standards.

It should be noted that the purpose of the landscape buffer to the northern boundary of the LIZ is to assist in mitigating adverse effects from industrial activities on the General Rural Zone (GRUZ) and MPZ taking into account the recommendations of the Ngā Hua o Āpiti Hono Tātai Hono report.

3.9.4 The final recommendation from Council advisers as to the zonings and overlays applying to the MML land is shown on the plan below.



4. Panel Consideration of Key Issues

4.1 NPS for Highly Productive Land

4.1.1 The Plan above shows the Land Use Capability classification within the McNab area. The majority of the MML land is classed as LUC III, with LUC IV land to the west of the proposed site access.

4.1.2 Counsel for both MML and the GDC agreed that the NPSHPL does not limit the zonings of the MML land that is LUC III given that it is identified in the Council's Spatial Plan as

being a future industrial area suitable for development in the 2020 – 2030 period. The Panel accepts that advice with regard to urban development, and discusses this further in relation to land sought to be used for rural lifestyle purposes in section 5.3 below.

4.1.3 Joshua Leckie, Counsel for MML, sought to persuade the Panel:

> …there is a risk that retaining an underlying rural zoning would trigger the restrictions in the NPS-HPL in the future, for example if the Site were to be excluded from the next spatial plan for the district and no longer subject to this exemption under the NPS-HPL.

4.1.4 It was his submission that:

> given rural industry activities are considered to be appropriate for the Site (which the Council and McNab are agreed on), an underlying urban zone is more appropriate to enable the types of activities anticipated for the Site in the longer term and not have that trumped by national direction in the future.

4.1.5 Shelley Chadwick, Counsel for GDC, did not agree with Joshua Leckie, noting that while the concern raised by MML may be valid in a business risk sense, it is not relevant for the Panel when making decisions on submissions to the MML land. It was her submission that the Panel is constrained to apply the RMA, current national direction and the existing spatial planning documents in the form they are at present.

4.1.6 The Hearings Panel favours the position of Shelley Chadwick on this matter. As noted by her it might equally be speculated that LUC III land is removed from the NPSHPL in a revision of the NPSHPL. The Hearings Panel is of the view that it should not seek to anticipate what might or might not be in any future spatial planning documents, either at a local council level or wider national level. In addition, the Panel considers it should not seek to anticipate what land use or resource management framework might be in place when the current PDP is due for review, if indeed such Plans are still a regulatory planning document.

4.1.7 The Panel is also aware of the recent High Court decision *Box Property Investments Ltd v The Expert Consenting Panel [2025] NZHC 1773* where the Court stated decision makers should not take into account government announcements or press releases about possible future law changes. Only laws that have actually been passed by Parliament are relevant to decision making under the RMA.

4.1.8 As a consequence of the matters above, the Panel has had no regard to issues that may arise in the future with regard to the provisions of the NPSHPL when determining the zoning and other provisions that should apply to the MML land. The Panel is only considering the legal framework as it currently applies.

4.2 Scope Issues

4.2.1 In section 3.4 of Decision 1 the Panel has set out its understanding of the legal submissions received during the hearing process on the issue of scope.

4.2.2 Joshua Leckie in his submissions of 28 November 2024 at the McNab hearing referred to Re Vivid Holdings Ltd (1999) 5 ELRNZ 264 submitting:

> The Courts have established that for an amendment to be considered within scope of a submission, the amendment must be fairly and reasonably within the general scope of:
> (a) an original submission; or
> (b) the proposed change as notified; or
> (c) somewhere in between.

4.2.3 And in referring to Countdown Properties (Northlands) Ltd v Dunedin City Council [1994] NZRMA 145 (HC):

> The question of whether an amendment sought goes beyond what is reasonably and fairly raised in submissions will usually be a question of degree, to be judged by the terms of the proposed change and the content of submissions.

4.2.4 For the reasons set out below in this decision, the Panel accepts that there is scope to consider the following matters as sought by MML in the modified relief sought:

- Extension of the Rural Lifestyle Zone
- Relocation of the Māori Purpose Zone with associated changes to the rules
- Introducing the Mahinga Kai Overlay, incorporating a stormwater management area
- Removing the deferred status from the 10ha Light Industrial Zone.

4.2.5 While the Panel recognises the desirability of, and would support providing for, additional industrial development on the MML land (subject to resolution of issues discussed elsewhere in this decision) taking into account the Council's Spatial Plan, the Panel does not accept there is scope to amend the area shown as "General Rural with Rural Industry Precinct Overlay" in the submission lodged to "Light Industrial Zone" for the reasons set out below.

4.2.6 At paragraph 30(d) of his legal submissions dated 28 November 2024 Joshua Leckie commented as follows with regard to the expansion of the expansion of the Light Industrial Zone:

> **Light Industrial Zone with a McNab Precinct Overlay** – the original submission sought a Deferred Light Industrial zoning for a 10 ha section of the Site adjacent to State Highway 1 and a Rural Industry Precinct Overlay over an additional 34ha. The amended relief seeks a live zoning and to extend the Light Industrial Zoning over a similar footprint (44.8 ha). Considered together, there is no change to those locations from the original submission. The change is to the methods.
>
> The relief now being sought achieves a more targeted response to the rural yet quasi-industrial environment that the Site is located in and provides for industry supporting the rural zone in a more focused way. To achieve that the McNab Precinct Overlay over the entirety of that Light Industrial Zoning will restrict activities on the Site to those of a rural industry/light industrial nature. This will better provide for the rural industrial nature of the Site and surrounding area but better integrate with the broader structure of the PDP. In our view, this is entirely within scope of the original submission as the location of the zones have not changed and the submission zoning would have allowed for similar types of activities that McNab is now seeking to establish in the McNab Precinct.
>
> In some instances, less activities are enabled than the submission version. For example, the submission version allowed for some "Industrial" (as defined) activities whereas the amended relief does not. In terms of density, the amended relief has been further aligned following feedback from Council with the anticipated environment originally sought through the introduction of a 1ha minimum lot size in the McNab Precinct. This will ensure a "perirural" environment is retained.
>
> Accordingly, we submit that the issue of rural industry activities establishing on the site that support the surrounding rural area of the scale anticipated was reasonably and fairly raised in McNab's original submission, and the amended relief is entirely within scope.

4.2.7 The start point for the Panel was the notified Plan. This showed all of the land zoned General Rural. The relevant parts of the submissions lodged by MML stated:

> **S103.002, S103.029 McNab Management Ltd**
> Zone map layers: RLZ-MAP
> 2. Retain the proposed General Rural Zone over part of land located at 10 McKinnon Rd, but amend the area and boundaries as shown on the attached concept plan and overlay

that General Rural Zone with a Rural Industrial Precinct called 'PREC14 - McNab Rural Industry Precinct.'

S103.005 McNab Management Ltd GRUZ-Overview and Purpose
Add a second paragraph after paragraph 1 which reads:
"A second Rural Industry Precinct (PREC14) is located on McKinnon Rd, McNab which is also identified as suitable for larger scale rural industry activities that support, service or are dependent on primary production. This Rural Industry Precinct is located alongside existing rural industrial activities and main transport links and has been identified to provide for actual and anticipated demand for land for rural industrial activities. Part of this this Rural Industry Precinct has an underlying Light Industrial Zone. This zoning is deferred until the relocation of Te Ika Rama Marae and the availability of appropriate infrastructure, including a new access road off the Waipawa Highway/SH 1. Therefore, land use development in this precinct is a controlled activity and subject to a concept plan that provides for potential infill development and subdivision in the future if the Light Industrial Zoning becomes operative."

S103.006 McNab Management Ltd
GRUZ-PREC13-O1
Amend GRUZ-PREC13-01 to read:
GRUZ-PREC13 & 14 -01: The Rural Industry Precincts enable larger scale rural industry which supports services that depend on primary production, and provide for the economic well-being of the community.

Add a new policy which reads:
GRUZ-PREC14-02: The Rural Industry Precinct at McNab is part of an integrated development that fosters environmental restoration and enhancement, and is integrated with surrounding land uses.

S103.008 McNab Management Ltd
GRUZ-Additional provisions sought
Add a new Policy GRUZ-PREC14-P2 which reads:
Enable the establishment of rural industrial activities within the McNab Rural Industry Precinct provided:
1. there is no direct access off SH 1;
2. appropriate infrastructure is provided for drinking water, and wastewater treatment and disposal;
3. stormwater is detained on-site to avoid exacerbating flood risk;
4. development of the area proceeds in accordance with a concept plan which:
   - promotes energy and water use efficiency and reduced greenhouse gas emissions;
   - enhances biodiversity and mahinga kai on site; - retains options for productive use of the land where possible;
   - is sympathetic with the character of the site and surroundings including Te Ika Rama Marae;
   - minimises potential reverse-sensitivity effects with adjoining land uses; and
   - enables future subdivision and in-fill development in that area which is deferred Light Industrial Zoning.

S103.009 McNab Management Ltd
GRUZ-Additional provisions sought
Add a new rule:
GRUZ- PREC14 - Land uses in McNab Rural Industrial Precinct: Activity status: Controlled"

S103.010 McNab Management Ltd
GRUZ-Additional provisions sought
Add a new standard which reads:
GRUZ-PREC14-S1: Rural Industry Precinct McNab:
1. The activity complies with all rules for permitted activities which apply to the GRUZ-PREC13 Rural Industry Precinct.

2. A concept development plan is submitted with the application showing the proposed layout of the Rural Industrial Precinct.
3. The concept development plan shows an underlying proposal for infill development of the area zoned deferred Light Industrial Zone.

Matters of control: The appropriateness of the provisions for access, infrastructure, building platforms, and the underlying infill development plan.
Activity status where compliance is not achieved: Discretionary activity.

4.2.8 The following concept plan was attached to the submission.

4.2.9 The definition of Rural Industry in the notified Plan is as follows:

> Rural industry: Has the same meaning as per the National Planning Standards - means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.

4.2.10 Within the General Rural Zone, PREC13 Rural Industry Precinct (South Gore) provides for Rural industry as a controlled activity, with Matters of Control listed as:

1. The location and layout of the activity.
2. The ability to mitigate adverse effects through the use of the sites natural contours, topography and existing landscape features.
3. The ability to mitigate adverse effects through landscaping buffers and setbacks.
4. Servicing of activities including the use of green infrastructure
5. The ability to utilise and / or avoid areas of potential land subsidence.
6. Mitigation of natural hazards
7. The safety and suitability of the access and effects on the transport network.

4.2.11 Other activities enabled in the General Rural Zone Precinct13 as notified are:

Primary Production	Permitted
Prospecting for mining minerals	Discretionary on Highly Productive Land
Quarrying Activities	Restricted Discretionary on Highly Productive Land
Rural Industry	Controlled
Woodlot	Controlled
Conservation Activity	Permitted
Residential Activity	Restricted Discretionary limited to 1 residential unit and one minor residential unit Otherwise discretionary
Industrial Activities	Permitted, limited to: • Contractors yard • Manufacturing of primary produce produced on site (excluding rural industry); • no customers coming to site • activity is set back at least 100m from any side or rear boundary

	• activity is setback at least 50m from any road boundary • a maximum of 12 staff on-site • activity is no greater than 500m^2 Otherwise discretionary
Commercial Activities	Permitted, limited to: • Vet Clinic • Plant nursery • Sale of on-site produce • Animal Boarding Activity • Hours 0700 - 1900 • a maximum of 12 staff on-site Otherwise discretionary
Education facilities	Permitted
Home business	Permitted
Emergency Service Facility	Discretionary
All other activities	Non-complying

4.2.12 The Panel also notes under Standard SUB-S1 within the General Rural Zone the minimum lot size is 8ha. A lesser site area is a non-complying activity.

4.2.13 In the evidence of Christine McMillan dated 7 October MML sought a Light Industrial zoning with a McNab Precinct Overlay with amendments to the LIZ Permitted activities standards to restrict industrial activities within the McNab Precinct and add LIZ-R5 Rural Industry to the permitted activities within the Precinct as follows:

> LIZ-R1 Light Industrial Activity
> LIZ-R2 Trade and Industry Training Facility
> LIZ-R5 Rural Industry
> Activity status; Permitted
> Where:
> 2. Any new or extended buildings or structure complies with all Light Industrial Zone Standards except LIZ-S10
> 3. Light Industrial Activity is limited to one or more of the following:
> (a) logistics,
> (b) storage and distribution of construction materials and supplies;

4.2.14 The Panel notes the proposed R5 activity (Rural Industry) is not provided for within the LIZ currently, and for other sites within the LIZ is a non-complying activity. In addition, in the LIZ there is no minimum lot size for subdivision.

4.2.15 The supplementary evidence of Christine McMillan responded to issues raised throughout the hearing process and the request of the Panel in Minute 29 for consideration to be given to adopting the Development Area approach to assist in the co-ordination of development of the MML land. The provisions provided by Christine McMillan retained the LIZ zoning, explaining her approach at paragraphs 10 and 11 of her statement as follows:

> As per the evidence version of the zoning, the intention is that light industrial activities focus on supporting primary production, storage and logistics and the revised rule provisions within DEV3 reflect this (including DEV3-O1(4) referred to above. No light industrial activities or buildings or structures associated with these activities are permitted, with this changing to controlled activity status in the revised provisions. Controlled activity status provides Council the ability to consider effects of the development within the matters of control, including suitable access formation, suitable servicing, and locations of buildings and structures within the site. Where activities do not comply with the controlled activity rules the activity status becomes discretionary allowing Council the ability to decline consent should the proposed activity not be considered appropriate in the environment.

A new rule is included in the subdivision chapter requiring a minimum lot area of 1ha in the LIZ within the McNab Development Area to ensure that light industrial activities are of an appropriate scale that is commensurate with the surrounding environment but also provide for the characteristics of the activities enabled in the McNab Development Area.

4.2.16 In the revised rules Christine McMillan sought the inclusion of Primary Production as a permitted activity where "Land within the Development Area is undeveloped". Overall, the activities provided for within the DEV3 McNab Development Area as set out in Appendix A of her supplementary evidence are:

DEV3-R1	Primary Production	Permitted, where land within the Development Area is undeveloped
LIZ-R1	Light Industrial Activity	Controlled, where: • The activity supports primary production; and/or • Logistics, storage and distribution or materials and supplies; Otherwise Discretionary
LIZ-R2	Trade and Industry Training Facility	Controlled
LIZ-R5	Retail Activity	Controlled where: • Sale of products produced on the site • Hire of goods that require outdoor storage • Take-away food premises • Sale of goods that require outdoor storage or are: o Farm machinery or vehicles o Building supplies o Farming and agricultural supplies o Garden and landscaping supplies Otherwise Non-Complying
LIZ-R6	Food and Beverage Activity	Controlled where: • Take-away food and • Public area limited to 50m^2 Otherwise Non-Complying
LIZ-R7	Residential Activity	Permitted where: • For caretaker purposes Otherwise Non-Complying
LIZ-R8	Office activity ancillary to PA	Permitted where • Ancillary to an activity on the site Otherwise Restricted Discretionary
LIZ-R15	All other activities	Non-Complying

4.2.17 Joshua Leckie in a Memorandum of Counsel on behalf of McNab Management Limited accompanying updated provisions dated: 24 February 2024 described the changes from previous evidence as follows, at paragraph 22 (c) and (d):

> The relief sought seeks to enable light industrial activity that is limited only to those that service the primary production sector and those that relate to logistics and storage. These light industrial activities are now proposed to be a controlled activity rather than a permitted activity to manage servicing and transport matters; and
>
> In response to concerns raised in the section 42A Report and at the hearing, a Rural Industry Precinct is no longer being sought and McNab relies on the definition of Light Industrial Activity in the PDP for the activities anticipated on the Site. However, although the PDP definition of light industry is used, this is limited to activities that service the primary production sector and that relate to logistics and storage. To clarify, we agree with the Panel's assessment at the hearing that the definition of rural industry activity under the

National Planning Standards (which is the definition used in the earlier relief sought) can also fall under the definition of light industrial activity under the PDP.

4.2.18 Joshua Leckie at paragraphs 43 - 48 of his Memorandum submitted:

> Ms Woodbridge considers that the amended relief sought by McNab is out of scope as "the proposal seems to have moved further away from the rural industry outcomes which were sought through the submissions and previous evidence". Ms Woodbridge remains of the opinion as set out in her section 42A Report that the scale of the light industrial zone proposed for the McNab site is out of scope of the submission.
>
> We have addressed the law on scope in our opening legal submissions, which we rely on and adopt for the present purposes. However, we reiterate that whether an amendment is within scope should be approached in a "realistic and workable fashion" rather than from the perspective of legal nicety.
>
> In our submission, the amended relief proposed by Ms McMillan has not moved further away from rural industry outcomes. Rather, the provisions have been amended to be better aligned with the National Planning Standards.
>
> Despite the removal of rural industry activities from the provisions, the proposed amendments do not increase the scale of light industrial activity proposed for the Site. As discussed at paragraphs [24]-[26] above, the scale of light industrial activity proposed for the McNab Development Area is still limited to logistics and the storage and distribution of materials, which was what was provided for under the McNab Rural Industry Precinct provisions. However, an additional requirement has been added to limit light industrial activities in the McNab Development Area to those which support primary production. This is to better align the types of light industrial activities in the McNab Development Area to those that service the primary production sector. Further, a 1 ha minimum lot size has been proposed to be in keeping with the surrounding lower density environment.
>
> Accordingly, our submission is that the scale of activities enabled under the light industrial zone in the McNab Development Area is consistent with the scale sought for the McNab Rural Industry Precinct in submissions and in the evidence of Ms McMillan and is therefore squarely within scope.

4.2.19 In order to reach a view on whether the amended relief is within scope the Panel has found it necessary to adopt a forensic approach, which by itself, having regard to *Friends of Nelson Haven and Tasman Bay Inc v Marlborough District Council*, would tend to signal a lack of scope."

4.2.20 The Panel has noted two key changes between the submission as lodged and the amended relief sought:

(i) A significant widening of the commercial and retail activities enabled, with the hire of goods stored outdoors, take-away food premises, sale of vehicles, sale of building supplies and sale of landscaping supplies all sought in the modified relief as controlled activities.

In the Panel's view this represents a commercialisation and urbanisation of the McNab area to an extent not foreseen in the original submission.

The Panel considers the impact of the amended relief is a significant shift away from the emphasis on rural activities and rural industry

(ii) A shift from a 8ha to 1ha default lot size for subdivision.

This effectively enables the intensity of development at a different scale to that of the original submission lodged.

4.2.21 The Panel considers, having regard to the objective and policy framework of the respective zones, which was not subject to any legal submissions, the adoption of LIZ

over a General Rural Zone with a Rural Industry overlay provides an expectation of future potential development options.

GRUZ-O3 Non-primary production activities that support primary production or rely on a rural location are provided for, while managing the nature, scale and location of such activities.

GRUZ-O4 The purpose and predominant character of the General Rural Zone is not compromised by non-rural activities.

GRUZ-PREC13-O1 The Rural Industry Precinct enables larger scale rural industry which support, service or depend on primary production and provide for the economic wellbeing of the community.

GRUZ-P2 Enable rural industry activities whilst preserving rural character, rural amenity, underlying Ngāi Tahu relationships with the natural environment, and productive capacity of the rural zone by limiting the nature, scale and location of such activities.

GRUZ-P9 Provide for small scale industrial activity, commercial activity, and other non-rural activities, where it can be demonstrated that:

1. the activity has a genuine link with the rural land or water resource, primary production activities, or recreation activities associated with resources located within the General Rural Zone; and
2. the activity is compatible with the character, amenity values, qualities and purpose of the General Rural Zone; and
3. the site design, layout and scale of the activity is compatible with the character and qualities of the zone; and …

GRUZ-PREC13-P1 Enable the establishment of larger scale rural industry activities within the Rural Industry Precinct where:

1. direct access from the State Highway 1 is avoided; and
2. green infrastructure is adopted for the management of water supply, stormwater management and wastewater treatment and disposal; and
3. activities are designed and located to avoid natural hazards unless the effects are mitigated and areas of potential subsidence may be used for buffers or infrastructure; and
4. landscaping buffers, green corridors and existing features are utilised to mitigate adverse effects on amenity values from larger buildings, parking areas and outside storage areas.

LIZ-O1 The Light industrial zone contributes to the economic wellbeing of the community by providing for a range of existing and future light industrial activities.

LIZ-O2 The range of activities provided for within the Light Industrial Zone do not detract from the vitality, vibrancy and character of the Commercial and Mixed Use Zones.

LIZ-P1 Enable activities to establish which support the purpose of the Light Industrial zone, including light industrial activities, service stations, trade and industry training facilities and emergency service facilities.

LIZ-P3 Avoid activities that may:

1. undermine the viability, vitality and function of the Town Centre and Local Centre Zones.

4.2.22 The amended relief also requests the following objectives and policies:

DEV3-O1 Development occurs in the McNab Development Area in a comprehensive manner that ensures:

1. The anticipated character and purpose of the underlying zone is met;

2. Provision of rural residential activities and compatible rural activities on larger lots within rural environments, providing a generally high level; of amenity and responding to the historic mahinga kai areas and the way water flows through the site;
3. Provision of targeted light industrial activities which support the surrounding primary production sector;
4. The development integrates with the natural topography and natural drainage channels;
5. Adverse effects of natural hazards are avoided or mitigated;
6. Road connections and networks are efficient, effective and safe; and
7. Landscaping and infrastructure is provided in accordance with the Outline Development Plan.

DEV3-P1 Enable subdivision and development which is in general accordance with the Outline Development Plan, unless an alternative design solution achieves the same or better outcomes whilst providing for high quality urban design, and efficient and sustainable service provision.

4.2.23 The Panel considers the objective and policy framework of the amended relief is a substantial move away from that provided for in the submission lodged and is contrary to Objective LIZ-O2 and Policy LIZ-P3. The rule framework provided is also contrary to the requested Objective DEV3-O1(3).

4.2.24 For the reasons set out in section 4.3 Transportation Issues, the Panel also considers a differentiation in approach is required between the 10 ha Light Industrial Zone sought and the remainder of the area sought for rural industry development in the submission lodged.

4.2.25 Shelley Chadwick in her legal submissions to Hearing Stream 1, dated 31 May 2024, outlined the key principles for the Panel in considering whether an amendment is within the scope of submissions as summarised by the High Court in Albany North Landowners v Auckland Council [2017] NZHC 138. With regard to those principles, it is the view of the Panel that with regard to the rezoning sought to LIZ:

(a) the amended relief sought goes beyond what is reasonably and fairly raised in submissions on the proposed plan

(b) the Panel is not satisfied that the amended relief is appropriate in response to the public's contribution. Adjoining landowners and other persons affected have not been given the opportunity of supporting or opposing that relief, nor would an informed and reasonable member of the public, having read all of the original submissions, have appreciated that the Panel might make the amendments sought in the amended relief.

(c) the amended relief sought was not reasonably or fairly raised in the course of submissions and the assessment required by the Panel to assess scope has only been enabled by a forensic analysis of the submission lodged and the amended

(d) the amended relief is not a foreseeable consequence of any changes directly proposed in the submission lodged.

4.2.26 While a review of the evidence might suggest that the amended relief has been predicated on the basis of concerns regarding the future content of the NPSHPL, that has not contributed to the conclusions reached by the Panel.

4.3 Traffic Issues

4.3.1 Reports and evidence with regard to the transportation effects of the development of the land subject to the MML submission was received from:

- Jason Bartlett for MML, being a statement of evidence dated 7 October 2024 in which he assessed development of the MML site based on 2 ha of Māori Special Purpose Zone, 52.7 ha of Rural Lifestyle Zone and 44.8 ha of Light Industrial Zone.
- Logan Copland, being a report dated 6 November 2024 that was appended to the s42A Report assessing the effects of the development of the land as sought in the original submission.
- Jason Bartlett for MML, being a statement of rebuttal evidence dated 21 November 2024.

4.3.2 Planning evidence was received from the following:

- Christine McMillan for MML, being a statement of evidence dated 7 October 2024.
- Helen Dempster for NZTA, being a statement of evidence dated 31 October 2024.
- Victoria Woodbridge, co-author of the s42A Report dated 7 November 2024.
- Christine McMillan for MML, being a statement of rebuttal evidence dated 21 November 2024
- Victoria Woodbridge, with an Addendum to the s42A Report dated 29 November 2024
- Christine McMillan for MML, being a summary statement of evidence dated 5 December 2024.
- Christine McMillan for MML, being a supplementary statement of evidence dated 24 February 2024
- Victoria Woodbridge right of reply evidence dated 7 March 2024
- Tina Carlson-McColl, being the s42A Report dated 7 April 2025 with details of consequential changes required to the PDP arising from the MML submissions.

4.3.3 Issues arising from the evidence and reports highlighted the following points were traversed:

(a) State highway access

(b) Impacts on the transport network

(c) Impacts on State highway traffic

(d) Design and location of access to the site

(e) Upgrading of State highway / Talbot Street (also referred to as McKinnon Road) intersection

(f) Consenting Pathway

4.3.4 The Panel notes that Talbot Street intersects with the State highway, travels a short distance and then turns left. At the point at which Talbot Street turns left, McKinnon Road commences. To avoid confusion the Panel simply refers to the Talbot Street / State highway intersection as the “SH intersection”. The evidence presented to the Panel frequently referred incorrectly to the SH intersection as the McKinnon Road State highway intersection.

State Highway Access

4.3.5 A direct access from the MML land onto State Highway 1, directly opposite Ballast Road, was shown on the concept Plan enclosed with the MML submission. However,

the revised plan attached to the evidence of Christine McMillan dated 7 October 2024 no longer showed this access. The Report prepared by Logan Copland opposed any new intersection directly on to the highway in the position shown, as noted in paragraph 3.3.4 above.

4.3.6 Given the omission of the access point from the latter plans provided by MML, the Panel has not considered this matter further, other than to note under Rule TRANS-R2 creating new accesses, including roads, onto a State highway is a restricted discretionary activity.

Impacts on the Wider Transport Network

4.3.7 The statement of evidence by Jason Bartlett focused on the impacts of potential development of the MML land on the SH intersection and the Talbot Street / McKinnon Road intersection. The Panel understands the standard of the latter is problematic as traffic volumes increase from current levels as development occurs in the Development Area and it is probable that queues at the SH intersection will block vehicle movements from Talbot Street, which is only 20 m from the highway. The Panel considers issues with both intersections relate to the SH intersection and are discussed further below.

4.3.8 Logan Copland adopted a wider perspective in his assessment, noting that while the State highway provided the most direct route into Gore, Talbot Street provides an alternative route into East Gore, as well as Gore itself via Wentworth Street and State highway 1. He also noted there are other routes available that allow drivers to avoid Talbot Street, including McKinnon Road and the Wentworth Street or (less likely) Whiterigg Road. On page 13 of his report he stated:

> There has been no assessment of the use of alternative routes between the site and Gore, namely via Talbot Street and Wentworth Street (refer Figure 3.2 & Figure 3.3.)
>
> If drivers want to avoid turning onto SH1 from McKinnon Road it is plausible they may use Talbot Street or Wentworth Street. As noted earlier Talbot Street is relatively constrained in width and alignment and is not conducive to high traffic flows. The ADT of Talbot Street indicates that it is operating as a Collector Road per the Gore Subdivision and Development Bylaw but it is not constructed to that standard.
>
> If drivers want to avoid Talbot Street due to these constraints and want to avoid turning onto SH1 at McKinnon Road due to the high-speed environment, an alternative route would be to use McKinnon Road and then turn left onto Wentworth Street. Although Talbot Street and Wentworth Street are slightly longer and less direct than the SH1 route, they could be attractive alternative routes into Gore if delays and queues at the McKinnon Road / SH1 intersection increase. We note that the traffic impacts of additional use of Talbot Street and Wentworth Street have not been assessed by Mr Bartlett but recommend this be given further consideration.

4.3.9 Jason Bartlett in his rebuttal evidence assessed the wider transport network including McKinnon Road, Talbot Street and Wentworth Street noting these roads are all low volume local two lane roads capable of accommodating a higher traffic flow. At paragraph 11 of his rebuttal evidence he stated:

> The maximum delay time of queuing at the McKinnon Road intersection with SH1, as a result of full development of the site in accordance with the requested zoning, will be approximately 20 seconds. This suggests using SH1 between McKinnon Road and Gore town centre will be the quickest travel route. Overall, it is possible that some development traffic may use alternative traffic routes. However, as alternative routes do not reduce the overall travel time, or distance, this will be minimal. This means that upgrading these roads to accommodate higher traffic flow is not necessary or warranted based on the effects, or traffic generated by the requested zoning. I consider that there are no additional road upgrades (beyond the left

turn that I have already recommended) required within the local road network to accommodate the requested zoning.

4.3.10 The Panel accepts the advice of Jason Bartlett with regard to these effects on the wider traffic network and does not consider the matter requires further consideration at this time.

Impacts on State Highway Traffic

4.3.11 Jason Bartlett at paragraph 37 of his statement of evidence stated:

> I have discussed the proposed zoning and anticipated modelling with Waka Kotahi NZ Transport Agency (NZTA) who have requested that the Light Industrial Zone adjacent to SH1 is to include a buffer or screen on or near the SH1 boundary to prevent light glare to drivers on SH1 from activities within the Zone. The proposed buffer or screen will be on the northern side of SH1 and therefore the height, or position must not result in shading of the State highway during winter months.

4.3.12 This formed the basis of his recommendation that:

> A buffer or screen is to be established on or near the State Highway 1 boundary to prevent light glare to drivers on State Highway 1 as a result of activities within the precinct. The buffer or screen may not result in shading of the State Highway during winter months.

4.3.13 Christine McMillan in her evidence sought to provide for a "buffer or screen" to be established prior to the operation of any industrial or rural service business within the McNab Precinct. To achieve this, she proposed the following Standard:

> LIZ-S11 Access
> Prior to the operation of any industrial or rural industry activity within the McNab Precinct a buffer or screen is to be established on or near the State highway 1 boundary to prevent light glare to drivers on State highway 1 as a result of activities within the precinct. The buffer or screen may not result in shading of the State highway during winter months.
>
> Activity status where compliance not achieved: Non-Complying

4.3.14 Helen Dempster in her statement of evidence expressed concern that the wording would not achieve the necessary outcomes, recommending the Standard be revised as follows:

> Prior to the operation of any industrial, light industrial or rural industry activity within the McNab Precinct a buffer or screen is to be established, and thereafter maintained, on or near the State highway 1 boundary to prevent light glare to drivers on State highway 1 as a result of activities within the precinct. The buffer or screen ~~may~~ must not result in shading of the sealed carriageway of the State highway during the months of May to September ~~winter months~~.

4.3.15 Logan Copland in his report attached to the s42A Report did not comment on this issue, while the s42A Report adopted the suggestion of Christine McMillan.

4.3.16 Christine McMillan at paragraph 58 of her rebuttal evidence, in response to the evidence of Helen Dempster put forward an alternative wording:

> Prior to the operation of any light industrial or rural industry activity within the McNab Precinct a buffer or screen is to be established, and thereafter maintained to a maximum height of 3 metres above the State Highway 1 road surface, no closer than 5 metres from the State highway 1 boundary to prevent light glare to drivers on State highway 1 as a result of activities within the precinct.

4.3.17 Christine McMillan in her supplementary evidence of 24 February, in recommending provisions to be included as part of a Development Area provided the following wording for a Standard:

Prior to development occurring a fence, bund or landscaping strip (a buffer) must be located within 5 metres of the State highway boundary with a maximum height of 3m to provide protection from glare for vehicles on the State highway.

Activity status where compliance is not achieved: Restricted Discretionary

Matters of discretion:

1. Whether effects of glare from development on site are managed through other methods;
2. Whether topography and natural features mitigate any reduction in the buffer; and
3. The effects on the safe and efficient operation of the road network.

4.3.18 The Panel received no evidence that assessed the effectiveness of the proposed buffer as a means of managing the effect of glare from development, and the movement of vehicles, on the MML site. Nor was there any evidence as to the effect of shading on the State highway carriageway from such a buffer. Further, there was no evidence as to the types of planting that may be suitable and the length of time it would take for an effective barrier to grow if plants are to be used as a screen. Given that nuisance glare can arise from vehicle movements and from internal and external lighting on the MML land the Panel concludes that the Standard recommended is inadequate to ensure future problems do not arise.

4.3.19 As a consequence of this assessment, the Panel has concluded that prior to any development occurring on the site provision is to be made for the preparation and implementation of a Lighting and Glare Management Plan to ensure appropriate consideration is given to the effectiveness of methods adopted to manage glare that may affect State highway traffic and to avoid icing of the State highway carriageway.

Design and Location of Access to the Site

4.3.20 In addition to the access to the site direct from the State highway, the plan included in the submission lodged showed a primary access from McKinnon Road and a secondary access from Pinnacle Road annotated “Rear Site Access (subject to adjacent landownership approval”). The secondary access was still shown on the concept plan submitted with the evidence of Christine McMillan dated 7 October 2024 but omitted on the Outline Development Plan attached to the supplementary statement of evidence of Christine McMillan dated 24 February 2025. Nor was there any evidence submitted referring to the “Rear Site Access”. The Panel understands this access is no longer sought and has not considered the matter further.

4.3.21 The Outline Development Plan submitted also showed a second access proposed from McKinnon Road. This change was not commented on in the supplementary evidence of Christine McMillan. Nor was any evidence provided with regard to the need for, or suitability of, the second access. The Panel also doubts the separation distance between the two accesses complies with the required standard. In the absence of such evidence, the Panel does not consider it appropriate to adopt the two access option and retains a single access point to the land.

4.3.22 The Panel has given regard to the concern of Victoria Woodbridge that residents in the McKinnon Road area have not had the opportunity of submitting on the McKinnon Road access. The Panel considers adoption of an access on McKinnon Road as being consequential to deleting the proposed state highway access and also notes that access was notated as “Future Primary Site Access”, which by itself did not restrict a further access from McKinnon Road. In addition, the Submission Plan shows an area of General Rural (with Rural Precinct Overlay) on a 2 ha area fronting McKinnon Road,

within which a transport yard would be permitted, and given that the Submission Plan shows the proposed Rural Lifestyle Zone area as land locked, the Panel considers it could be reasonably assumed access to that area would be provided from McKinnon Road. The Hearings Panel therefore disagrees with Victoria Woodbridge that there is a scope issue arising from the relocation of the access.

4.3.23 Jason Bartlett assessed the McKinnon Road access to the site at paragraphs 52 - 54 of his evidence as follows:

> It is expected that the site access from McKinnon Road would be formed at the existing 90 degree curve. This curve is currently posted with a 35km/hr advisory speed and is an appropriate location to form an access intersection given the low overall approach speed as result of the existing alignment.
>
> It would be appropriate for the access intersection to be formed as a T-intersection. This would be formed based on resource consent for the formation of roads providing access to the Rural Lifestyle or the (larger portion) of the Light Industrial Zoning areas.
>
> As identified in the modelling above it is possible that the full development of all the Light Industrial and Rural Lifestyle Zoning can be completed without impacting on an access intersection at the existing 90 degree bend based on the average traffic generation rates. However, should the proposed industrial development have a higher 85th percentile traffic generation rate, or higher background traffic growth scenario, traffic from the SH1 intersection could queue into the site access intersection. This could occur at 55% of the of development of the larger (42.8Ha) portion of the requested Light Industrial Zone. I recommend that a transport assessment is undertaken at this stage of development to consider:
>
> (a) Any requirement for alternative site access or route options as a result of projected traffic generation; and
>
> (b) The timing of implementation for any required alternative access or route options.

4.3.24 Christine McMillan in her evidence proposed as a Standard relating to access to the site for an assessment to be undertaken at two trigger points applying to the extent of development on the MML land. These trigger points are considered below as part of the assessment of the intersection of McKinnon Road and State highway 1. Her draft provisions did not include any consideration of the design of the access prior to development of the land.

4.3.25 Logan Copland in his report considered the current intersection configuration of McKinnon Road / Talbot Street and the site access is problematic due to the minimal spacing between the intersections. He advised, given the relatively low traffic flows currently on McKinnon Road, the traffic dominant flow with development will be into and out of the new site access. He recommended any new intersection be formed at the elbow in McKinnon Road with priority being given to traffic entering and exiting the development. That would require traffic from the existing northwestern approach on McKinnon Road to be subject to a give way or stop control. The Panel accepts the desirability of that configuration.

4.3.26 The s42A Report supported the recommendations of Christine McMillan.

4.3.27 The Development Area provisions recommended by Christine McMillan in her supplementary evidence proposed that Light Industry Activity and Trade and Industry Training Activity in the proposed Light Industrial Zone be a controlled activity with Matters of Control including:

> The provision, design and construction of transport infrastructure, including the upgrade of the McKinnon Road and State Highway 1 intersection;

4.3.28 She also proposed that subdivision within the McNab Development Area be a restricted discretionary activity with "the design and provision of access" being a matter of discretion and that the following Subdivision Standard apply:

> SUB-S6DEV3 – McNab Development Area
> 1. All necessary roads shall be constructed in general accordance with the layout shown on the Outline Development Plan; and
> 2. Roads are designed and constructed in accordance with the requirements of the Transport Chapter; and

4.3.29 The Development Plan also showed access to the site, described in the text as indicative road layout, with rules restricting building on the indicative roads.

4.3.30 The Panel does not consider the recommended regime of assessing traffic flows through a controlled activity consent associated with Light Industry Activity and Trade and Industry Training Activity within the Light Industrial Zone (LIZ) as an effective means of control. Other proposed permitted activities within the LIZ and Rural Industrial Overlay area may well generate similar or greater levels of traffic without any assessment of impacts of traffic generation. This approach relies on a single site, or combined site not being the whole of the area, being liable for what are cumulative traffic effects should they exceed a trigger level (a matter discussed further below). In addition, this does not take into account traffic generated by activities permitted in the Rural Lifestyle Zone. This leads the Panel to the conclude that prior to development occurring within the LIZ or Rural Industrial Overlay area appropriate long term access be developed to the site from McKinnon Road. This may or may not be a shared access serving the marae and rural lifestyle area.

State Highway Intersection

4.3.31 In the context of traffic issues, both the expert technical evidence and the planning evidence focused on the SH Intersection and the mechanism and timing of upgrades that would be required depending on traffic levels. Modelling data and analysis included in the evidence of Jason Bartlett was not in dispute. Consequently, the Panel has not undertaken a detailed review of it.

4.3.32 The key findings of Jason Bartlett referring to the SH Intersection at paragraphs 55 and 56 of his evidence stated:

> My assessment identifies a number of elements which will need to be considered for the development of the larger (42.8Ha) portion of the Light Industrial Zone (McNab Precinct). I consider that these can be appropriately assessed and monitored at certain development triggers within the zone provisions.
>
> My modelling suggests that a number of trigger mechanisms will be needed to monitor and guide development within the requested zones. I recommend that the following trigger mechanisms are integrated into the proposed Light Industrial Zone activities (McNab Precinct) provisions:
>
> (b) Prior to the operation of any industrial or rural service business within the McNab Precinct a left turn lane shall be constructed to the satisfaction of NZTA.
>
> (c) A traffic assessment must be undertaken prior to more than 30% of the McNab Precinct being developed to assess:
>
> (i) Any specific intersection improvements required at the Talbot Street intersection with McKinnon Road;
>
> (ii) Any requirement for alternative site access or route options as a result of projected traffic generation; and
>
> (iii) The timing of implementation for any required alternative access or route options.

(d) A traffic assessment must be undertaken prior to more than 55% of the McNab Precinct being developed to assess:

(i) Any requirement for alternative site access or route options as a result of projected traffic generation; and

(ii) The timing of implementation for any required alternative access or route options.

4.3.33 Logan Copland in his report agreed the existing configuration and turning treatments at the SH Intersection are suitable based on current flows and turning movements and this remains suitable to accommodate the short-term development, which includes the 2ha Māori Purpose Zone. He added however, that when the Rural Lifestyle lots are added, if 85th percentile rates are used or if background traffic on SH1 increases significantly, a channelised left turn treatment is likely to be required on the SH1 western approach.

4.3.34 Logan Copland also stated the amount of development proposed as part of the original submission requires the intersection to be upgraded to include a channelised left turn treatment, based on the conclusions of Jason Bartlett's assessment and considers this will need to occur prior to any development of the 10 ha Light Industrial site shown in the submission lodged.

4.3.35 In addition to plans showing the left turn upgrade, Logan Copland noted the evidence of Jason Bartlett concluded a full-length right turn lane on the SH1 eastern approach is required but that was not shown on the plans. He also drew attention to sight distances to the west from the intersection passing outside of the road corridor but he considered the risk low as the land is part of the Main South Rail line and unlikely to be built on.

4.3.36 Logan Copland at section 4.4 provides the following view with regard to the trigger points recommended by Jason Bartlett:

> In the context of the original submission which proposes 10 Ha of industrial development, we do not consider that trigger points are required for the SH1 / MacKinnon upgrades and the upgrade should be implemented prior to any development on the 10 Ha site. Should a greater level of development beyond 10 Ha be considered then additional upgrades may be required to safely accommodate the higher traffic generation.

4.3.37 Logan Copland considers the current intersection configuration of McKinnon Road / Talbot Street and the site access is problematic due to the minimal spacing between the intersections. In his view this is an issue requiring consideration in design of the SH Intersection, the Talbot Street/ McKinnon Road intersection and the site access.

4.3.38 Christine McMillan in her planning evidence at paragraph 46 expressed the view that including the recommendations of Jason Bartlett as rules within the Plan will ensure the safe and efficient operation of the State Highway and the Gore District Council roading network. She the recommended the following Standard:

> LIZ-S11 Access
>
> Activities within the McNab Precinct (PREC3)
>
> 1. Prior to the operation of any industrial or rural industry activity within the McNab Precinct a buffer or screen is to be established on or near the State highway 1 boundary to prevent light glare to drivers on State highway 1 as a result of activities within the precinct. The buffer or screen may not result in shading of the State highway during winter months
> 2. Prior to the operation of any industrial or rural industry activity within the McNab Precinct a left turn lane shall be constructed to the satisfaction of NZ Transport Agency

3. A traffic assessment must be undertaken prior to more than 30% of the McNab Precinct (PREC13) being developed to assess:

   a. Any specific intersection improvements required at the Talbot Street intersection with McKinnon Road.

   b. Any requirement for alternative site access or route options as a result of projected traffic generation and

   c. The timing of implementation for any required alternative access or route options.

4. A traffic assessment must be undertaken prior to more than 55% of the McNab Precinct being developed to assess:

   a. Any requirement for alternative site access or route options as a result of projected traffic generation and

   b. The timing of implementation for any required alternative access or route option

4.3.39 Following feedback from a NZTA Safety Engineer, Helen Dempster recommended clause (2) be reworded as follows:

2. Prior to the operation of any industrial, light industrial or rural industry activity within the McNab Precinct a separated left turn lane shall be constructed on State Highway 1 at the intersection with McKinnon Road, to the satisfaction of NZ Transport Agency.

4.3.40 Helen Dempster expressed dissatisfaction with the Standard promoted by Christine McMillan, stating at paragraphs 5.13 and 5.14 of her evidence:

> … While I agree that it appropriate for these traffic assessments to be undertaken at the specified levels of development, I think that there is the possibility that these assessments may not be undertaken, or not undertaken to an acceptable standard, or the outcomes of those assessments not implemented, particularly where the requirements to comply with LIZ-S11 (3) and (4) is triggered by an activity allowed under permitted activity rules LIZ-R1, LIZ-R2 and LIZR5.
>
> As presently worded, there is no requirement for the traffic assessments to be undertaken by someone who is suitably qualified and experienced. When undertaken in accordance with permitted activity rules LIZ-R1, R2 and R5, there is no requirement for the traffic assessments to be provided to the Council or the road controlling authorities, or anyone, for review and approval. The wording leaves it to the discretion of the person that undertakes the traffic assessment to decide if intersection improvements and alternative accesses or route options are necessary and when they should be implemented. In addition, its presently unclear who would be required to implement any intersection improvements and alternative accesses or route options.

4.3.41 Helen Dempster went on to state at paragraph 5.16:

> … I consider that the requirements of clauses (3) and (4) should not be subject to a permitted activity rule, and instead should be linked to a rule with an activity status that triggers the need for a resource consent, so that the traffic assessments are subject to the scrutiny and regulation of the resource consent process. This will allow the Council to:
>
> - ensure that the transport assessment requirement is complied with;
> - that the assessments are undertaken to an appropriate standard;
> - that third parties who whose interests may be affected have an opportunity to provide feedback; and
> - to make explicitly clear what alternative route or access options are required, when they must be implemented and who will implement them.

4.3.42 She also added that in a conversation with Joshua Leckie she was advised that areas may be leased rather than subject to a formal subdivision. This reinforced her view that a resource consent rule is required.

4.3.43 The s42A Report replicated the recommendation of Christine McMillan.

4.3.44 At the hearing, the Panel expressed concern with the validity and practicality of the recommended rules. In response, Christine McMillan in her supplementary evidence recommended Light Industrial Activity and Trade and Industrial Training Facility be listed as controlled activities with a matter of control being "the provision, design and construction of transport infrastructure, including the upgrade of the McKinnon Road and State Highway 1 intersection".

4.3.45 Christine McMillan in her supplementary evidence dated February 2025 also recommended the following standard applying to the Light Industrial Zone:

Dev3-S2 Roading

1. Prior to any new buildings being occupied a separated left turn lane must be constructed on State Highway 1 at the intersection with McKinnon Road to the satisfaction of the New Zealand Transport Agency;
2. Any internal roads to provide access to development are constructed in general accordance with the layout shown on the Outline Development Plan;
3. Internal roads are designed and constructed in accordance with the Requirements of the Transport Chapter;
4. There is no access directly onto State highway 1;
5. Following the granting of the first resource consent authorising a Light Industrial activity within DEV3, each subsequent resource consent application must include a calculation of anticipated vehicle movements per day of both the activity and cumulatively with other activities in the McNab Development Area; and
6. Once the vehicle movements calculated under DEV3-S2(5) exceed 3500 Vehicles Per Day a traffic impact assessment must be prepared by a suitably qualified and experienced person to assess the effects of traffic on the intersection of McKinnon Road and State highway 1 including the potential for conflict with vehicles turning into or out of Talbot Street.

4.3.46 The Hearings Panel considers the provisions recommended above by Christine McMillan are an improvement on what has previously been provided. However, there is still considerable uncertainty as to "what happens next" following the traffic impact assessment described in paragraph 6 above.

Consenting Pathway

4.3.47 The expert transport and planning reports and evidence was in agreement that upgrades will be required to the site access, the Talbot Street / McKinnon Road and SH Intersection progressively over time and that works, and potentially other actions, will be required to avoid glare and shading impacts on the State highway. Various options for the wording of rules to ensure effects are appropriately managed as development occurs were presented to the Panel. None of these provided the level of certainty deemed necessary by the Panel, nor the flexibility the Panel considers appropriate over time.

4.4.48 The Panel has therefore adopted the approach requiring management plans to manage these effects.

4.4 Servicing

4.4.1 Justin Ralston, a consulting civil engineer, gave evidence on behalf of MML assessing how development on the site might feasibly be serviced with potable water, stormwater

and wastewater. A useful summary of his evidence is given by Victoria Woodbridge at paragraph 150 of her s42A Report as follows:

> It appears that whilst there are options for how servicing can be achieved onsite. It is unclear whether connections to Council's reticulated network would be economically viable and how this would work in practice through development in terms of funding upgrades. Higher density development is likely to be limited where onsite servicing solutions are necessary and it may not be desirable from an environmental and cultural values perspective to have high levels of onsite wastewater discharge.

4.4.2 Victoria Woodbridge goes on to state:

> 151. However, these appear to be issues that could be worked through during development. We generally recommend that limiting the density of development is likely to be more appropriate given servicing constraints. Therefore, a small area of urban (light industrial zoning) with a higher proportion of lower density 'rural' development would likely be more appropriate.
>
> 152. Overall, it would seem that an integrated approach to development would be beneficial in terms of managing servicing, although it's unclear how realistic that is within the parameters of what the submitter is seeking by way of PDP amendments.

4.4.3 Within rural areas where no reticulated water and sewage services are available landowners make provision for their own potable water supply, either by bore, or more commonly by rainwater tank supply. Equally, treatment and disposal of sewage and stormwater is undertaken on an individual basis. The Panel recognises rural-residential development within the MML development will need to be independent for servicing, although that does not rule out a joint scheme in some form.

4.4.4 A lack of available reticulated services to the MML land is likely to have a limiting effect on the type of industry able to establish in the area and the overall density of development. The Panel considers that is a factor limiting the minimum lot sizes within the area zoned General Rural in the notified Plan.

4.4.5 In anticipation of a staged approach to development the Panel is satisfied that issues related to servicing can be appropriately considered at the time of subdivision and again when site development is undertaken.

5. Panel Consideration of Zoning

5.1 Industrial Land Fronting McKinnon Road

Zoning Sought

5.1.1 All of the land subject to the MML submission fronting McKinnon Road was zoned Rural Lifestyle in the notified Plan.

5.1.2 The submission lodged by MML sought 2.1 ha of this land to be zoned "General Rural with Rural Precinct Overlay".

5.1.3 The plan attached to the evidence of Christine McMillan of 7 October 2024 showed a different configuration with an area of 2.0 ha, a notation of "Transport Yard" and zoning of Light Industrial Zone. The "Primary Site Access" abutted the eastern (State highway) side of the 2.1ha area.

5.1.4 The Development Plan attached to the supplementary evidence dated 24 February 2025 of Christine McMillan showed a second access passing through the land and a "Green Buffer Area" along the site boundary and to the north. The "Transport Yard" notation was not included.

5.1.5 The s42A Report author, Victoria Woodbridge, throughout the hearing process recommended the zoning remain as notified as Rural Lifestyle.

Evidence of MML

5.1.6 Christine McMillan in her evidence of 7 October 2024 did not comment specifically on this land. She did however, refer at paragraph 49 of her evidence to the flood hazard in the locality, noting:

> I have engaged with Environment Southland (see email attached at Appendix E) who have made some building finished floor level recommendations in relation to flood hazard which I consider are appropriate and would be considered at the time of subdivision or building consent for any activities on the Site

5.1.7 Appendix E comprised an email from Gavin Gilder, Team Leader Policy and Planning, Environment Southland dated 11 September 2024 in which he stated:

> Environment Southland recommends that:
> 1. any dwelling and associated accessory buildings erected within the Rural Lifestyle Zone are to be located on land no less than 81.00 metres New Zealand Vertical Datum 2016; and
> 2. any dwelling erected within the Rural Lifestyle Zone is to have a minimum floor level no less than 81.60 metres New Zealand Vertical Datum 2016.
>
> Conditions 1 and 2 above, should be a promoted as a requirement in the rezoning proposal. Ideally, they would be complied with on a continuing basis by the registration of a Consent Notice against the new titles for any future subdivision.
>
> For consistency Environment Southland's previous comment on the proposed transport yard are repeated below.
>
> Given there is no flood protection infrastructure in this area, Environment Southland's preference would be for the proposed transport yard to be located on flood free land. However, the utilisation of the existing farm buildings for the transport yard is noted.
>
> Environment Southland recommends that any office/staff amenities building for the proposed transport yard on Lot 1 is to have a minimum floor level of 81.60 metres New Zealand Vertical Datum 2016. This should be required as a condition of the land use consent for the transport yard.
>
> Environment Southland also recommends that any dwelling erected on Lot 1 is to be located on land no less than 81.00 metres New Zealand Vertical Datum 2016 and is to have a minimum floor level no less than 81.60 metres New Zealand Vertical Datum 2016. This condition is to be complied with on a continuing basis by the registration of a Consent Notice against the new title for Lot 1 as part of the subdivision process.

Section 42A Report

5.1.8 The s42A Report included the extracts from the Tonkin and Taylor Report referred to in paragraph 3.3.6 above and at paragraphs 154 - 157 stated:

> … the report does indicate that the lower south western corner of the site is subject to more significant flood hazard risk. This supports the case for relocating the MPZ.
>
> The modelling does not support the proposed small area (2ha) of light industrial zoning in the south west corner of the site because it appears this zone is entirely at risk of high flood impact. Whilst the Natural Hazard Chapter will direct how activities and buildings are managed within higher flood risk areas, proposing a zone where there is no opportunity to locate activities outside of the high flood risk area does not seem, in our view, a sensible approach.
>
> We acknowledge that the submitter has sought advice from Environment Southland. However, this appears to relate only to the Rural Lifestyle Zoning although there is a

comment which states “Environment Southland’s preference would be for the proposed transport yard to be located on flood free land. However, utilisation of the existing farm buildings for the transport yard is noted.” It is assumed that the reference to ‘transport yard’ is a reference to the 2ha Light Industrial Zone. Whilst the submitter may have a proposed use for the area now (as a transport yard) if the site is rezoned it effectively enables and provides for other activities and signals a longer term option for urban development on the site.

The flood hazard risk has, therefore, informed our recommendation not to zone this area light industrial with a rural industry precinct. Instead, we consider a rural lifestyle zone more appropriate to reflect the surrounding zone and enable for any future subdivision to be more comprehensively considered with larger lots that can ensure built development is undertaken in an area where there is a lower flood risk or a more integrated approach can be adopted to managing flood risk effects

Rebuttal Evidence of MML

5.1.9 Following receipt of the s42A Report, Christine McMillan in her rebuttal evidence of 7 October 2024 provided the following commentary at paragraphs 40 - 42:

> The Reporting Officers do not consider the Light Industrial Zone with the McNab Precinct overlay to be appropriate for the 2ha section of land on the south west of the Site due to the high flood risk identified for this area in the Tonkin and Taylor flood assessment and that the area would become a spot zone surrounded by rural lifestyle.
>
> While acknowledging the Tonkin and Taylor assessment, Environment Southland have been consulted in relation to the flood hazard and the proposed use of this site twice. Initially the consultation was for a transport yard in this location as part of a proposed subdivision application. The second consultation was in respect of the zoning proposed for the McNab site as a whole and included the proposed LIZ zoning. Environment Southland have responded that with minimum floor levels of 81.60 metres (NZVD 2016) the location of a transport yard within this site would be acceptable. Should the site not be developed as a transport yard the LIZ zoning of this area is still considered appropriate in relation to the flood hazard due to the low risk to human life resulting from uses which are enabled by the proposed McNab Precinct Overlay.
>
> I acknowledge that the 2.0ha area is split from the remainder of the proposed LIZ by the Rural Lifestyle Zone. I don’t consider this inappropriate in the site context due to the Mahinga Kai overlay which prevents all buildings and activities within this area unless for the purposes set out in proposed rule RLZ-R13. The same result could be achieved by extending the LIZ zone over the Mahinga Kai overlay which would then connect the two LIZ zones. The 2ha area remains connected in an operational and geographical sense to the remainder of the LIZ through the access roads and visually will appear as part of the wider LIZ-McNab Precinct

Panel Considerations

5.1.10 Having regard to the conclusions of the Panel regarding scope in section 4.2 above, the Panel does not consider it is able to consider zoning this land Light Industrial. Nor does the Panel consider it appropriate to provide for any industrial use of this land for the following reasons:

(i) No evidence was presented by MML assessing the effects of development of this land and measures that could be taken to remedy or mitigate any associated adverse effects, particularly impacting the nearby dwelling on the opposite side of McKinnon Road and on the general amenity. For example, no landscaping or bunding was proposed.

(ii) Existing uses of the area are unaffected by the underlying zoning.

(iii) As shown on the Development Plan submitted in February 2025, there is an intent by MML to construct an access through the near centre of this land to the rural lifestyle development area.

(iii) No evidence was submitted by MML assessing the implications of the advice of Environment Southland that any office/staff amenities building on the land have a minimum floor level of 81.60 metres New Zealand Vertical Datum 2016. No contour plan was provided showing the extent to which any part of the site was above that level.

(iv) The Panel agrees in part with the comment at paragraph 111 of the s42A Report opposing an industrial zoning "because this small area of land would become something of a 'spot zone' surrounded by Rural Lifestyle Zone". From the Panel's perspective it would rather have a single development area of industrial land without any "outliers" so as to manage the effects of industrial type activities and avoid the risk of spreading of these activities by way of future consenting procedures in adjoining rural lifestyle areas.

(v) The Report from Tonkin and Taylor, being best available information, shows almost the entire site fronting McKinnon Road to be classed H4 and H5 within the Australian Emergency Management Institute Guideline 2014 - Risk Categories Guideline which are described as follows:

Risk Category	Description
H4	Unsafe for all people and all vehicles.
H5	Unsafe for all people and all vehicles. Buildings require special engineering design and construction.

5.1.11 The Panel is mindful of the joint witness statement from Mishka Banhidi and Marcus Roy dated 1 April 2025 referred to in Decision 44 Natural Hazards at paragraph 2.6.3 that agreed a definition of significant risk could be incorporated into the PDP worded as follows:

> Significant Risk in the context to Natural Hazards means mapped flood hazard areas where the 1% AEP modelled flood risk is 4 5 6 of AEMI guideline based on the best available information.

5.1.12 Given the significant risk applying to this land, the Panel concludes it is not physically suitable for development for activities that are sensitive to flooding. While the Council's Spatial Plan showed this land and the wider area as being suitable for industrial development, that does not mean all parts of the wider area are suitable for such use and given the narrow configuration of the land fronting McKinnon Road and subject to the MML submission, this further limits the range of uses that can establish there.

5.1.13 The request of MML to rezone the land from that shown in the notified Plan is rejected.

5.2 Industrial Land Fronting State Highway

Zoning Sought

5.2.1 All of the land subject to the MML submission fronting McKinnon State highway 1 was zoned General Rural in the notified Plan.

5.2.2 The submission lodged by MML showed this land as Light Industrial Zone (Deferred) with a notation of "10Ha". Also shown on the plan in the submissions was a dashed line notated "Future Primary Site Access" but as set out in subsequent plans that was deleted, with a "Primary Site Access" from McKinnon Road.

5.2.3 Subsequent Plans showed this land as Light Industrial Zone as part of a greater light industrial area.

Section 42A Report

5.2.4 The s42A Report was critical of the range of options considered by Christine McMillan in considering s32 matters, referring to a further option of the 10ha land being classified as "McNab Rural Industry Precinct" together with the land to the rear. The recommendation at the end of the Report however showed the land as Light Industrial Zone subject to confirmation from the Hokonui Rūnanga that this was accepted, which Terry Nicholas in his statement of evidence confirmed it was.

5.2.5 The s42A Report for the Wrap Up Hearing held on 7 April 2025 showed this land as "Light Industrial Zone".

Panel Considerations

5.2.6 The only difference between what was sought in the MML submission and what has been recommended to the Panel is the removal of the "deferred" status. The Panel has no issue with the deferred qualifier being removed. The submission clearly stated the future use of the land would be light industrial, and no indication was given how long the deferral would be. The Panel considers in RMA terms there is no difference in effect and supports Light Industrial zoning over this 10 ha area of land.

5.2.7 However, arising from the risk of glare impacting on State highway users and the inadequate standard of access to the site and road intersections linking to the State highway, any development of the 10 ha is being made subject to a controlled activity consenting process to avoid, remedy or mitigate these effects.

5.3 Rural Lifestyle Zoning

Zoning Sought

5.3.1 Figure 12.1 at paragraph 2.1.1 shows the notified Plan zoning and the area of the MML submission. Approximately 39.2 ha of the 99 ha MML land was zoned Rural Lifestyle.

5.3.2 The submission lodged sought to increase the Rural Lifestyle area to 43.4 ha with approximately 15 ha of General Rural Zoned land being added to the Rural Lifestyle area, but other zoning totalling approximately 11 ha shown as Rural Industry Precinct Overlay, Mahinga Kai Special Purpose Area and Māori Purpose Zone being taken out of the Rural Lifestyle zone. The land zoned General Rural in the notified Plan sought to be changed, extended the Rural Lifestyle boundary from what appears to the Panel to be fence lines to follow the western edge of a stream that passes through the property.

5.3.3 The plan attached to the evidence of Christine McMillan dated 7 October 2024 showed a different configuration with the area of the Rural Lifestyle Zone now comprising 53.04 ha in total of which 17.1 ha was in the Rural General Zone in the notified Plan. At paragraphs 32 - 35 of her statement she stated:

> The RLZ zoning sought by McNab represents a minor extension to the RLZ zoning proposed under the PDP. While this removes approximately 17 ha from the GRZ productive land resource, this is balanced by the inclusion of the Mahinga Kai overlay which is reserved from buildings and therefore also residential use.
>
> I consider the extended RLZ zoning and Mahinga Kai overlay to be in general accordance with the objectives of the RLZ, in particular RLZ-O2 which seeks the integration with the natural and rural character of the area and responds to the underlying Ngāi Tahu relationship with the natural environment.
>
> I also consider extending the RLZ zoning to be in accordance with the objectives as set out in the Strategic Direction chapter in in particular UFD-O2 providing sufficient land to

> meet the short, medium and long term housing demand for the District, and UFD-O3 providing for a variety of housing types and sizes across the District; and UFD-O12 in provision of a rural lifestyle area adjacent to Gore.
>
> Overall, I consider the extended RLZ with Mahinga Kai overlay within the Site is considered to be an efficient and effective means of achieving relevant objectives means of achieving relevant objectives and the strategic direction of the Gore PDP

Section 42A Report

5.3.4 The Report provided an overview of the NPSHPL noting at paragraphs 30, 33 and 35:

> In the meantime, HPL is land that is general rural and LUC, 1, 2 and 3 but not land identified for urban development in a council adopted growth plan or strategy (3.5(7)). Councils can allow urban rezoning of HPL only if it is necessary to provide development capacity to meet expected demand, where it is the only reasonably practicable option, and where the benefits outweigh the costs (3.6(4)). Rezoning of HPL for Rural Lifestyle is to be avoided except where analysis is undertaken considering matters such as permanent or long-term constraints of the land, productive capacity loss, land fragmentation, reverse sensitivity effects, benefits of development versus costs of loss of HPL.
>
> In relation to the MML site the land was identified in Council's 'Ready for Tomorrow' Spatial Plan as being suitable for urban (industrial) zoning…
>
> However, as the MML site was included within the Spatial Plan in accordance with clause 3.5(7)(b) the Council need not consider the land as highly productive land under the NPS-HPL.

5.3.5 Having regard to the final paragraph above, the s42A authors by implication supported the rezoning of the additional Rural Lifestyle land and no further advice was provided through the hearing process in that regard.

Panel Considerations

5.3.6 As the request to provide additional land for Rural Lifestyle purposes was included in the submission lodged, the Panel considers the request is within scope and while the configuration of the various zonings sought have changed through the hearing process these are of no material consequence. The National Planning Standards do not envisage a zone such as the Mahinga Kai Special Purpose Zone, and because of not proceeding with that zoning, adoption of Rural Lifestyle zoning is appropriate given the adjoining zonings and the outcome of other Panel decisions. In reaching that view, the Panel also was mindful of and accepted the submission of Joshua Leckie that the area where the zoning is changing is internal to the site and the only external boundary impacted is the existing marae location, therefore no person could reasonably claim to be affected by the modifications sought. The Panel also notes that no evidence was provided opposing that request.

5.3.7 Having regard to the reports and evidence received, the Panel understands that the land subject to the MML submission is classed as LUC 3 and is identified in the Council's Spatial Plan as being suitable for urban (industrial) development. As a consequence, the provisions of the NPSHPL do not apply when providing for urban development. On that basis the planning and legal advice from both Panel advisers and MML is that the NPSHPL does not provide a barrier to zoning the additional 17.1 ha of land for Rural Lifestyle purposes as sought by MML, in accordance with clause 3.6 of the NPSHPL.

5.3.8 The Panel is of the view that any analysis required by the NPSHPL in providing for the Rural Lifestyle zoning of the land fronting McKinnon Road would have been undertaken to the extent required as part of the process of preparing the Proposed Plan. In any

case, no submission has opposed that zoning and therefore there is no scope to examine that. However, for the sake of thoroughness, the Panel has assessed the additional land sought to be zoned Rural Lifestyle by MML.

5.3.9 Having considered the provisions of the NPS-HPL the Panel considers the rezoning request is appropriate because:

(i) Identifying the land as being suitable for industrial use in the Council's Spatial Plan enables the land to be taken out of rural use, and the effect of rezoning for Rural Lifestyle purposes is no different. There is therefore no net loss of land being use for agricultural purposes.

(ii) The additional Rural Lifestyle land is separated by a stream from the residual block of land currently shown as General Rural in the notified Plan.

(iii) The decision of the Panel to provide for a Rural Industry overlay of the residual block of land to the east of the stream results in an isolated area of land between the stream and the notified Rural Lifestyle boundary that is not practically available nor economically viable for farming purposes.

(iv) Having regard to the current shortage of rural lifestyle land free of natural hazards, physically suitable and within proximity to the Gore township, the environmental, social and economic benefits of rezoning outweigh any associated costs.

5.3.10 The Panel therefore accepts the submission of MML to expand the area of land zoned Rural Lifestyle as generally shown on the submission lodged and modified in the subsequent Outline Development Plan submitted.

5.4 Marae Site

Current Situation

5.4.1 Te Ika Rama Marae is located adjacent to the switchback section of McKinnon Road. It has an area of 3,410 m2. In the notified PDP the marae site is shown as:

- Māori Purpose Zone
- Medium Liquefaction Risk
- Subject to Actual or Potential Inundation

5.4.2 The notified Māori Purpose Zones (MPZ) chapter provides a single framework of objectives, polices and rules for the four areas with this zoning. However, recognising the actual incidence of flooding that occurs on the site, the following activities (the restricted activities) are listed as restricted discretionary rather than permitted:

- Cluster Housing
- Residential Activity
- Community Facility
- Commercial Activity
- Visitor Accommodation

5.4.3 The Panel does note however, none of the matters of discretion in the associated restricted discretionary activity rule are relevant to inundation issues.

5.4.4 In the notified MPZ Standards additional restrictions also apply as follows:

- Because of actual flooding, maximum building coverage allowed (MPZ-S6) is 1,000m2 for Te Ika Rama Marae and 50% of the site for other Māori Purpose Zones.

- Arising from proximity to State highway 1, setback of buildings from roads (MPZ-S4) is 10m for Te Ika Rama Marae (which is the same as Hokonui Rūnanga sites) and 3m for Mataura and Hokonui Marae sites.

Proposed New Site

5.4.5 The submission of MML sought to provide for Te Ika Rama Marae to be relocated to an elevated position, primarily arising from the flood hazard at the current site. At paragraphs 114 to 118 of the s42A Report, Victoria Woodbridge and Courtney Bennett commented on this issue as follows:

> The original MML submission [S103] provided no information on if or how Hokonui Rūnanga had been involved in developing this proposal. Hokonui Rūnanga Inc also did not lodge a further submission indicating their support or otherwise for this proposal.
>
> Ms McMillan's Statement of Evidence, lodged on behalf of MML, makes several references to mana whenua involvement in this proposal. It repeatedly states that the rezoning has been prepared and considered in conjunction with Hokonui Rūnanga. It does not, however, provide any evidence of this, such as letters of support from Hokonui Rūnanga or mana whenua-led cultural assessments for their proposal. This, when viewed in conjunction with the lack of supportive further submissions from Hokonui Rūnanga Inc., continues to concern us.
>
> Putting this concern aside, there does seem to be merit in the submitter's proposal to move Te Ika Rama Marae MPZ [S103.002]. As Ms McMillan correctly states, the proposed Te Ika Rama Marae MPZ has more restrictive provisions than other proposed MPZ due to the flood risks at this location. We agree to some extent with Ms McMillan that, "This has the result that mana whenua are unable to utilise their land for activities which support Māori values and aspirations". Whilst Māori Customary Activities, Marae or Papatipu Rūnanga Complex, Conservation Activity, Education Facility, and Primary Production are all proposed as permitted activities at Te Ika Rama Marae MPZ, Cluster Housing, Residential Activity, Community Facility, Commercial Activity, and Visitor Accommodation are all proposed as restricted discretionary activities due to the flood risk.
>
> We do note, however, that the Submitter's original submission did not seek all these activities be converted to permitted activities at Te Ika Rama Marae MPZ. This matter is discussed in more detail below at Section 12.
>
> Moving this MPZ to an area with lower flood risks would therefore allow a wider range of activities to be considered for this MPZ, as the reason for restricting some activities would no longer be valid. This, in turn, would better enable mana whenua to express their rangatiratanga over the way the site is used. Therefore, we support the proposed relocation of O Te Ika Rama Marae MPZ, subject to a formal letter of support being tabled by Hokonui Rūnanga Inc. confirming that they are supportive of this proposal.

5.4.6 Their recommendation as paragraph 161 read;

> The relocation of Te Ika Rama Marae MPZ is accepted and the notified PDP MPZ is zoned Rural Lifestyle, subject to a letter of support being received by the Hearings Panel from Hokonui Rūnanga Inc.

5.4.7 Terry Nicholas, in a statement of rebuttal evidence dated 21 November 2024, stated at paragraph 15 "Hokonui Rūnanga supports the relocation of the Māori Special Purpose Zone to move the Marae out of a high flood hazard area". Thereby meeting the qualification in the s42A Report.

5.4.8 Having regard to the reports and evidence received, the Panel agrees to the relocation of the MPZ for Te Ika Rama Marae as shown on the plan submitted in the MML submission.

5.4.9 It was the evidence of Christine McMillan that the restrictions applying to Te Ika Rama Marae in the notified Plan were no longer necessary if the Maori Purpose zoning at McNab was relocated. As noted above, the s42A Report noted that the changes sought to the provisions in the evidence of Christine McMillan went further than what was sought in the MML submissions. However, no assessment was undertaken in the s42A Report as to the suitability or otherwise of the restricted activities in the MPZ Te Ika Rama Marae.

5.4.10 The Panel is mindful that in Decision 19 Māori Purpose Zone, paragraph 3.10.2, MML submission S103.026 has been accepted resulting in Educational Facility being provided for as permitted activity in the Māori Purpose Zone.

5.4.11 MML submission S103.027 seeking the inclusion of health facilities in the MPZ was subject to consideration at the MPZ hearing. It was recommended that the submission be rejected on the basis that "health facilities" are a subset of "community facilities" which is listed as a permitted activity in the Zone. The reports and evidence provided at the hearing, did not take into account that "community facilities" were not listed as a permitted activity within Te Ika Rama Marae area of the Zone. The s42A Report for the McNab hearing considered the matter further and recommended "community facilities" be permitted in the MPZ at Te Ika Rama Marae. The Panel agrees with that recommendation.

5.4.12 In terms of effects, the Panel considers there to be no material difference between the activities permitted in the notified MPZ Te Ika Rama Marae area and those listed as restricted discretionary. It is the view of the Panel that allowing the restricted activities within other areas of the MPZ illustrates a suitability within the relocated Te Ika Rama Marae area. Consequential to the decision to allow the relocation of the MPZ at McNab, it is appropriate to provide permitted activity status to the restricted activities. Similarly, the restrictions in MPZ-S4 and MPZ-S6 are also removed as a consequential matter.

5.4.13 Having regard to the provisions of s32AA, the Panel concludes amending the Rules and Standards for the MPZ in this way is the most appropriate way to achieve the purpose of the RMA, provide for the relevant matters in s6, s7 and s8 of the Act, is Act; and will be efficient and effective in achieving the objectives of the MPZ.

Zoning of Current Marae Site Sought

5.4.14 The submission lodged showed the site as Mahinga Kai Special Purpose Zone. The plan attached to the evidence of Christine McMillan dated 7 October 2024 showed the site as "Mahinga Kai Overlay", while in her supplementary statement of evidence dated 24 February 2025 it is shown as "Future Stormwater Management Area" surrounded by land on three side (with the fourth side being McKinnon Road) notated as "Stormwater Management Area".

Section 42A Report

5.4.15 The s42A Report did not explicitly consider this land, and in response the evidence of MML recommended the site remain Rural Lifestyle as notified. The s42A Report for the Wrap Up Hearing held on 7 April 2025 adopted the approach sought by MML recommending the site be shown as "Future Stormwater Management Area".

Panel Considerations

5.4.16 The Panel notes by the end of the hearing process there was no dispute that the existing marae site should be used for stormwater management purposes with an underlying zoning of Rural Lifestyle and the Panel accepts that as the appropriate

outcome. None of the evidence however provided detail on what would trigger the uplifting of the "future" notation, nor were any rules recommended to provide for this. In response to questions to Christine McMillan, the intent was to provide for the marae to remain on the site until the Māori Purpose Zone site constructed and ready for occupation.

5.4.17 The Panel does not consider that the "future" notation is required. The marae has existing use rights that guarantee it current and future occupation regardless of what is included in the District Plan.

5.4.18 The rules recommended by Christine McMillan in her supplementary evidence dated 24 February 2024 did not include any rules applying to the stormwater management area. The only relevant rules apply to the mahinga kai area and are as follows:

> DEV3-R2 Activities, buildings and Structures in the Mahinga Kai Area
>
> Activity status: Permitted Where:
> 1. The building or structure is an access, road or bridge (including footings);
> 2. The activity is for stormwater management; or
> 3. The activity is Mahinga Kai.

5.4.19 This implies the intent that the stormwater management area is part of the Mahinga Kai area and that fits with what the Panel considers the appropriate outcome.

5.5 Mahinga Kai Area

Zoning Sought

5.5.1 The submission lodged showed a 6.7 ha area in green as Mahinga Kai Special Purpose Zone. This followed the stream through the MML land becoming wider in the vicinity of the proposed Māori Purpose Zone through to McKinnon Road.

5.5.2 The plan attached to the evidence of Christine McMillan dated 7 October 2024 removed the zoning. The previously wider portion of the zone from above the Māori Purpose Zone to McKinnon Road, with an area of approximately 10 ha, was shown as "Mahinga Kai Overlay" with an underlying zoning of Rural Lifestyle. The Rural Lifestyle and now proposed Light Industrial zoning was extended with the stream providing the boundary between the two zones.

5.5.3 Christine McMillan at paragraphs 30 and 31 of her evidence commented on the Mahinga Kai Overlay as follows:

> A complementary rule (RLZ-R13(2)) results in non complying activity status for any buildings or structures within the Mahinga Kai overlay at McNab other than access roads, bridges and their footings, or for the purposes of Mahinga Kai or stormwater and floodplain management.
>
> The Mahinga Kai overlay provides for food harvesting from the land and water resource and is therefore considered to be a productive use of the land.

Section 42A Report

5.5.4 The s42A Report considered the amended approach at paragraphs 119 to 125, noting the overlay aligns to the cultural values of the site. However, given the overlap between the protections of the proposed overlay and the protections listed within the setbacks applying to rivers and streams in the notified Plan, the Report did not support the Mahinga Kai Overlay.

MML Rebuttal Evidence

5.5.5 Christine McMillan at paragraphs 43 - 47 of her rebuttal evidence described that the proposed Mahinga Kai Overlay extends over a much wider area than the 5m setback for low order streams, with it being 160m wide at the widest point and 30 metres at the narrowest. In her view, this together with the proposed rules afforded a higher level of protection than the notified Plan provisions.

Panel Considerations

5.5.6 It is the view of the Panel that the intent of the Mahinga Kai Special Purpose Zone is followed through to the Mahinga Kai Overlay and is therefore within scope. The Panel agrees with Chistine McMillan that the Overlay approach is "in general accordance with the objectives of the RLZ, in particular RLZ-O2 which seeks the integration with the natural and rural character of the area and responds to the underlying Ngāi Tahu relationship with the natural environment" as stated by Christine McMillan at paragraph 33 of her rebuttal evidence. The Panel also agrees with her that the proposed rules afford a higher level of protection than the notified Plan provisions applying to setbacks from waterways.

5.5.7 The Panel notes the Outline Development Plan submitted by MML shows a 20 metre wide "Green Buffer Area" extending along the stream from above the relocated Māori Purpose Zone to the northern boundary of the MML land. The Panel considers this an essential replacement for the Mahinga Kai Special Purpose Zone shown on the plan included with the submission that was missing from other configurations of zoning provided during the hearing process. .

5.5.8 The Panel therefore accepts that part of the MML submission and subsequent request to include an area for Mahinga Kai Overlay and associated rules.

5.6 McNab Rural Industry Precinct Zoning

5.6.1 At paragraph 4.2.5, the Panel recognises the desirability of and, but for the lack of scope, would support providing for additional industrial development on the MML land subject to resolution of issues discussed elsewhere in this decision with regard to transport and servicing.

5.6.2 While the Plan provisions included in this Decision provide for the appropriate management of traffic effects adopting General Rural Zone subdivision provisions, the Panel opposes the modified relief sought by MML because none of the area is served by reticulated water, sewage and stormwater services. While the evidence established to the Panel's satisfaction that 1 ha sites are suitable for rural lifestyle activities to enable disposal of treated sewage, the Panel received no evidence on the minimum site requirements for other zones within the site. Given the extent of the land sought to be zoned LIZ in the modified relief the Panel could not accept that one ha lots for such purposes was suitable given the range of activities that were sought to be undertaken in the modified relief. This added to the Panel's reasoning that the minimum allowable area suitable for subdivision should be 8 ha as applies to the General Rural Zone as opposed to the 1 ha recommended by Christine McMillan in her final evidence.

5.6.3 Commissioner Bartlett considers the requested 1ha lot size to be appropriate for the precinct area because the 8ha lot size set for the General Rural Zone is based on provision for rural production, rather than being a matter related to on-site servicing. She considers a 1ha lot size would be consistent with a more concentrated use of land for rural industrial activities and therefore within scope of the submission that sought a

rural industry precinct. The Panel decision on SUB-R10 allows for consideration of lot sizes at the time of consent.

6. Decision

6.1 Arising from the matters determined above, the Panel accepts in part submissions S103.002, S103.029 McNab Management Ltd by making the following additions to the District Plan, together with subsequential additions to chapters as required:

The following provisions are being added to the District Plan, together with other consequential changes:

HOW THE PLAN WORKS

Precincts

McNab Rural Industry Precinct	**PREC15**	The purpose of this precinct is to provide for larger scale *rural industry* activities and other compatible activities which would support primary production, provide employment opportunities and benefit the economy of the Gore District.

SUBDIVISION

Rules

SUB-R10 **Subdivision in McNab Development Area**

Light Industrial Zone, Rural Industry and Rural Lifestyle Zone Precinct PREC15

Activity status: Restricted Discretionary

Where:

1. It is in accordance with the McNab Outline Development Plan
2. It is in accordance with standard SUB-S2 and SUB-S6.
3. A Traffic Impact Assessment and Management Plan prepared by a suitably qualified and experienced person is provided to assess traffic effects on the safe and efficient operation of the *transport network* arising from permitted activities on the new lots created.
4. For land within the Light Industrial Zone, a Lighting and Glare Management Plan prepared by a suitably qualified and experienced person is provided to assesses glare and lighting effects on the safe and efficient operation of State highway 1.

Matters of discretion:

1. The suitability of *subdivision* design, orientation, lot sizes and dimensions.
2. Internal roading design and provision, including roading connections for future subdivision on adjoining *land*.
3. The standard of any access or road connection to the McNab Development Area from McKinnon Road or State highway 1.
4. Improvements to transport network including the McKinnon Road/Talbot Street and Talbot Street/State highway 1 intersections.

5. For land within the Light Industrial Zone, measures and their timing to mitigate the effect of light and glare from traffic and activities on the safe and efficient operation of users of State highway 1.
6. The outcome of any consultation undertaken with New Zealand Transport Agency.
7. *Earthworks*, including the alteration of contours, and retention of existing natural features.
8. The adequacy of measures to address the risk of *natural hazards*.
9. Provision for servicing, including water supply, fire-fighting water supply, wastewater treatment and disposal, *stormwater* design and disposal, electricity and telecommunications.
10. Impacts on and access to natural and ecological value areas.
11. Impacts on Ngāi Tahu cultural values, as listed in MW-1.2.
12. Easements.

Where relevant the matters of discretion for DEV3-R3, DEV3-S1 and DEV3-S2.

SUB-S6 McNab Development Area

DEV3 McNab Development Area

1. A landscape plan is provided with the resource consent for subdivision which shows how landscaping will be provided in accordance with the outline development plan and includes the following:
   (a) Species and quantity (at least 30% must be species that will grow to at least 2m in height) within 5 years; and
   (b) Retention of any existing vegetation; and
   (c) Coverage area; and
   (d) Density of planting; and
   (e) Percentage of mix; and
   (f) Anticipated maximum growth rate and height; and
   (g) An ongoing weed control and maintenance programme; and
2. Stormwater provision must ~~shall~~ be designed and constructed by the developer such that:
   (a) downstream flooding on any private property in a 1% AEP rainfall event is not increased.

GENERAL RURAL ZONE

Overview and Purpose

McNab Rural Industry Precinct (PREC15)

A Rural Industry Precinct applies to an area of land north of State Highway 1 and Ballast Road which has been identified as being suitable for larger scale rural industry activities that support, service or are dependent on primary production. These activities will support the purpose of the General Rural Zone and provide for the economic well-being of the District. However, impacts on the adjoining Rural Lifestyle and Māori Purpose Zone require managing and as such comprehensive development integrating landscape buffers and screening with green infrastructure is required.

Objectives

GRUZ-PREC15-O1 The McNab Rural Industry Precinct enables larger scale rural industry and other compatible activities which support, service or depend on primary production and provide for the economic well-being of the community.

Policies

GRUZ-PREC15-P1 Enable rural industry activities and other compatible activities which support the local rural economy within the McNab Rural Industry Precinct where:

1. Direct access from the State Highway 1 is avoided; and
2. Green infrastructure is adopted where services are not available for the management of water supply, stormwater management and wastewater treatment and disposal; and
3. Landscaping buffers, green corridors, existing features and setbacks are utilised to mitigate adverse effects on the amenity values of nearby sensitive activities.

GRUZ-PREC15-P2 Enable rural industry activities and other compatible activities which support the local rural economy within the McNab Rural Industry Precinct where adverse effects on *sensitive activities* can be avoided, remedied or mitigated.

GRUZ-PREC15-P3 Manage the location, layout and design of any new access and roads within and to the rural industry precinct, to minimise adverse effects on the local roading network and the adjoining State highway

Rules

GRUZ-R4 **Rural Industry**

PREC13 Mataura Rural Industry Precinct and PREC15 McNab Rural Industry Precinct

GRUZ-S2 **Building Coverage**

PREC13 Mataura Rural Industry Precinct and PREC15 McNab Rural Industry Precinct

GRUZ-44 **Setback to Side and Rear Boundaries**

(3) Buildings greater than 500 square metres are setback 200m, except:

(a) in the Mataura Rural Industry Precinct (PREC13) where the setback is 100m;

(b) in the McNab Rural Industry Precinct (PREC15) where the setback is 50 m from the boundary of the General Rural, Rural Lifestyle and Māori Purpose Zone;

GRUZ-S8 **Height**

PREC13 Mataura Rural Industry Precinct and PREC15 McNab Rural Industry Precinct

RURAL LIFESTYLE ZONE

Overview and Purpose

McNab Development Area (DEV3)

A Development Area has been provided on land at McNab on the northern side of State highway 1 and with access from McKinnon Road. This contains a range of zones, including Rural Lifestyle. The purpose of the Development Area is to facilitate the coordinated, integrated and holistic development of a range of rural lifestyle, light industrial, rural industry and Maori purpose activities while having regard to potential cross boundary adverse effects between the different zones and impacts of the transport network. The provisions within the Development Area Chapter apply in addition to zone rules.

DEVELOPMENT AREAS

Refer to Appendix A

APPENDIX A

DEVELOPMENT AREAS - DEV

Overview and Purpose

3. McNab Development Area (DEV3)

McNab Development Area – DEV3

Context

This area is located at McNab on the northern side of State highway 1. It is strategically located adjacent to State highway 1 to the north and near State highway 90 to Central Otago and while enabling rural lifestyle development it is envisaged it will develop as a hub for a range of light and rural industry activities near to the Mataura Valley Milk factory located on the opposite side of the highway.

While the land generally rises up from the highway, part of the area adjacent to McKinnon Road is subject to a flood hazard in association with the stream that passes through the Development Area. The O Te Ika Rama Marae is located within the area subject to flooding and is to be relocated from its current location to a new location on higher ground. A Māori Purpose Zone is being provided for this purpose. The stream and adjoining land is proposed to be developed for mahinga kai and flood protection purposes.

Land Use

The Development Area provides for light and rural industrial activities within the identified zone and precinct areas. The Māori Purpose Zone will allow for mana whenua to utilise an area of land which is subject to low hazard risk, for activities which support Māori values and aspirations, including residential, community facilities, education and health facilities. The Rural Lifestyle Zone provides for choice in living for the Gore community and is a natural extension of the surrounding Rural Lifestyle Zone.

The Light Industrial, Rural Lifestyle, General Rural and Māori Purpose Zone Chapters explain the purpose of each Zone and it is anticipated that activities compatible with the purpose and predominant character of each zone will establish within the Development Area.

Until such time as the land is developed in accordance with the purpose of each zone, agricultural, residential and marae activities can continue pursuant to existing use rights.

Access and Transport

The Outline Development Plan includes an indicative location of an access to serve the Development Area from McKinnon Road. As subdivision and development takes place within the Development Area regard will be required to be given to the standard of that access and any other access that may be

sought onto the State highway. Consideration will also be required of the transport network in the vicinity of the Development Area and provision made to undertake improvement works to McKinnon Road and its intersection with Talbot Street and also the intersection of Talbot Street with State highway 1. It will be necessary to undertake works adjacent to the State highway boundary to avoid light and glare from activities and traffic within the Development Area impacting on the highway.

Open Space and Landscaping

The McNab Development Area includes a Māori Purpose Zone, Rural Lifestyle Zone, Light Industrial Zone and General Rural Zone. To assist with mitigating potential effects on the amenity values of these zones from future light and rural industrial activities a landscape buffer is required along the outer boundaries of the Light Industrial Zone and Rural Industry Precinct as shown on the Outline Development Plan. To enhance the ecological values of the Development Area a range of indigenous species are to be required within the landscape buffers.

Servicing

The Development Area is not currently served by water or sewerage reticulation. In the absence of reticulated services integrated community or individual onsite management will be necessary. Stormwater management will require co-ordination and integration to ensure that post development flows do not exceed pre-development flows. Where hazardous substances are stored onsite additional requirements apply.

Effects resulting from on-site servicing will be considered when land is subdivided and during future development, particularly in relation to impacts on the stream and the mahinga kai area shown on the Outline Development Plan.

Objectives

DEV3-O1 Development occurs in the McNab Development Area in a comprehensive manner that ensures:

1. The anticipated character and purpose of the underlying zones are met;
2. Provision of rural residential activities and compatible rural activities on larger lots within rural environments, providing a generally high level of amenity and responding to the mahinga kai areas and the way water flows through the site;
3. The development integrates with the natural topography and natural drainage channels;
4. Adverse effects of natural hazards are avoided, remedied or mitigated;
5. Road connections and networks are efficient, effective and safe; and
6. Landscaping is provided in accordance with the Outline Development Plan.

Policies

DEV3-P1 Enable *subdivision* and development which is in general accordance with the Outline Development Plan and provides for high quality urban design, and efficient and sustainable service provision having regard to:

1. Maintaining the safe, efficient and effective operation of the road network, including State Highway 1;
2. Managing the effects of light and glare spill onto State Highway 1 and avoiding ice formation from shading of the sealed carriageway of State Highway 1;
3. Integration with topography and natural drainage channels;
4. The avoidance and mitigation of natural hazards;
5. The extent to which reticulated water and sewage is provided within the Development Area; and
6. The provision of landscaping to provide visual buffers between zones within and external to the Development Area, and to enhance amenity values.

DEV3-P3 Manage adverse effects resulting from activities, *buildings* and *structures* in the Light Industrial Zone and Rural Industry Precinct on adjoining Rural Lifestyle, General Rural and Māori Purpose Zones.

DEV3-P4 Recognise and protect the ecological, stormwater management and mana whenua cultural values associated of the mahinga kai area.

DEV3-P5 Require efficient and sustainable stormwater control and disposal systems to be designed and installed at the time of subdivision and development that:

1. incorporates where practical *nature based solutions* utilising the natural contours of the land; and
2. mitigates the effects of development on-site using stormwater management areas to avoid inundation within the subdivision or on adjoining land.

Rules

DEV3-R1	**Activities, *buildings* and *structures* in the Mahinga Kai Area**	
	Activity status: Permitted Where: 1. The *building* or *structure* is an access, road or bridge (including footings);	**Activity status where compliance not achieved:** Non-Complying

	2. The activity is for stormwater management; or 3. The activity is Mahinga Kai.	
DEV3-R2	**New *buildings* and *structures***	
All areas	**Activity status:** Permitted Where: 1. All *buildings* which require servicing are serviced by Council's reticulated network; 2. All new, extended or relocated *buildings* and *structures* comply with relevant Zone and Development Area Chapter standards; and 3. Within the Light Industrial and Rural Lifestyle Zones, all *buildings* and *structures* are setback a minimum of 20m from a O Te Ika Rama Marae, except that: (a) No setback is required for a fence 4. All buildings and structures comply with DEV3 standards.	**Activity status where compliance not achieved:** Restricted Discretionary **Matters of discretion:** 1. Provision of servicing, including water supply, fire-fighting water supply, sewage treatment and disposal, stormwater management, electricity and telecommunications; 2. Adverse effects on the amenity values of adjoining zones and/or O Te Ika Rama Marae; 3. Adverse effects on ecological values within the Mahinga Kai area; 4. Impacts on Ngai Tahu cultural values listed in MW-1.2 5. The matter of discretion for the infringed standard.
DEV3-R3	**Site Access**	
All areas	**Activity status:** Permitted Where: 1. The site and development is undertaken in conformity with an approved Traffic Impact Assessment and Management Plan prepared in conformity with Rule SUB-R10(3).	**Activity status where compliance not achieved:** Restricted Discretionary **Matters of discretion:** 1. Provision of roading connections for future subdivision on adjoining *land*. 2. The standard of any access or road connection to the McNab Development Area from McKinnon Road or State highway 1.

		3. Improvements to the transport network including the McKinnon Road/Talbot Street and Talbot Street/State highway 1 intersections. 4. The outcome of any consultation undertaken with New Zealand Transport Agency.
DEV3-R4	**Lighting and Glare**	
Light Industrial Zone	**Activity status:** Permitted Where: 1. The site and development is undertaken in conformity with an approved Lighting and Glare Management Plan prepared in conformity with Rule SUB-R10(4).	**Activity status where compliance not achieved:** Restricted Discretionary **Matters of discretion:** 1. Measures and their timing to mitigate the effect of light and glare from traffic and activities on the safe and efficient operation of users of State highway 1; 2. Avoiding shading and ice formation on the state highway as a result of any screening. 3. The outcome of any consultation undertaken with New Zealand Transport Agency.

Standards

DEV3-S1	**Stormwater**	
All areas	1. At the time of land use, subdivision or development and prior to any new *buildings* being occupied stormwater provision must ~~shall~~ be designed and constructed by the developer such that: (a) downstream flooding on any private property in a 1% AEP rainfall event is not increased.	**Activity Status where compliance is not achieved:** Discretionary
DEV3-S2	**Landscaping**	
Light Industrial	1. A landscape buffer is provided in the locations indicated on the	**Activity status where compliance is not achieved with DEV3-S2:**

Zone and Rural Industry Precinct (PREC14)	Outline Development Plan. 2. The landscape buffer must be: (a) at least 20 metres wide on the outer boundary of the Development Area; (b) at least 20 metres wide from the Māori Purpose Zone boundary (c) at least 10 metres wide from the Rural Lifestyle Zone boundary 3. The landscape buffer must ~~shall~~ be planted with indigenous vegetation with at least 30% of species that will grow to at least 2 metres in height within 5 years.	Restricted Discretionary **Matters of discretion:** 1. Whether topography and natural features mitigate any reduction in landscaping; and 2. The ability to mitigate adverse effects by other methods.
Rural Lifestyle Zone and Māori Purpose Zone	4. A landscape buffer at least ten metres wide is to be provided adjacent to the stream that is adjacent to the zone boundary. 5. The landscape buffer must ~~shall~~ be planted with indigenous vegetation with at least 30% of species that will grow to at least 2 metres in height within 5 years.	

DEV3-ODP McNab Outline Development Plan