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

AND

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

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Gore District Plan - Decisions on Submissions

Topic 18: Settlement Zone

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Maria Bartlett

Date of Hearing
23 - 24 July 2024

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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 and evidence considered in relation to submissions lodged to definitions and mapping applying to the Settlement Zones.

1.1.2 This Decision is one of an integrated series of Decisions considering submissions to the Rural Zones, as follows:

- Decision 12 McNab
- Decision 15 Rural Zones Definitions and Maps
- Decision 16 General Rural Zone
- Decision 17 Rural Lifestyle Zone
- Decision 18 Settlement Zone
- Decision 26 New Vale

1.1.2 The Hearings Commissioners comprising the Panel for these hearings were Commissioners Keith Hovell, Maria Bartlett, Cliff Bolger and Glenys Dickson.

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

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

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

1.2 Abbreviations

1.2.1 In this decision the following abbreviations are used:

Full Text	Abbreviation
Clark Fortune McDonald and Associates	CFMA
Environment Southland	ES
Heritage New Zealand Pouhere Taonga	Heritage NZ
KiwiRail Holdings Ltd	KiwiRail
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under section 42A of the RMA	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Southland Federated Farmers NZ	Federated Farmers
Waka Kotahi NZ Transport Agency	NZTA

1.3 Statutory Considerations

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

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

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

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

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

1.4 Procedural matters

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

1.4.2 Commissioner Hovell, as an adjoining landowner and occupier, considered he had a conflict of interest regarding submissions S99.001 and S99.046 by Clark, Fortune, McDonald and Associates, and he took no part in the consideration of these submissions. No other member of the Panel identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearing.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 General Rural Zone Hearing

2.1.1 The hearing in relation to the Rural Zones was held on 23 - 24 July 2024 at the Gore District Council administration building, in Gore.

2.1.2 Prior to the hearing, the Panel received a s42A Report and associated documents authored by the following:

Table 1: s42A Report Documents	
Author	**Description**
Joanne Skuse	s42A Report
Tonkin and Taylor	Flooding Assessment
Mark Gregory	Transport Expert Evidence
The Property Group	Planning for Growth
The Property Group	Economic and Population Growth Analysis
Mike Moore	Proposed Hokonui Hills Rural Lifestyle Zone Landscape Protection Provisions

2.1.3 At the commencement of the hearing, the Panel received supplementary evidence from Joanne Skuse responding to matters raised in the evidence and additional information received by the Panel. The Panel sought clarification from Joanne Skuse regarding matters contained in her s42A Report and supplementary evidence at various times during the hearing, in between presentations from submitters and further submitters.

2.1.4 Submitters who appeared at the hearing are shown in Table 2.

Table 2: Hearing Stream 3: Rural Zones – Submitters Attending the Hearing			
No.	**Submitter**	**Attendees**	**Nature of Evidence**
S101 FS30	Transpower NZ Ltd	Ainsley McLeod John Sutherland	Video Link Video Link
S74	Hamish Weir	Self	In person
S112	NZTA Waka Kotahi	Helen Dempster	Video Link
S42	Kowhai Trust	Hamish Weir Angela Watson Johnnie Watson	In person In person In Person
S99	Clark Fortune McDonald	Nick Geddes Ben Wilson	In person In person
S85	Environment Southland	Marcus Roy Gaven Guilder	Video Link Video Link
S77	New Zealand Heavy Haulage	Jonathan Bhana-Thomson	Video Link
S126	Southland Federated Farmers NZ	Rachel Thomas	Video Link
S3	Stoney Creek Station	Brett Highsted Nathan Bosker	In Person In Person
S128	Greenbriar Ltd	Bridget Irving John Howes Andrew Shultz Megan Justice	Video Link Video Link

2.1.5 Submitters who submitted further information for the Panel to consider were:

- Ravensdown Ltd (S26)
- Silver Fern Farms (S40)
- Rural Contractors of NZ (S145)
- KiwiRail Holdings Ltd (S132)

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

2.2 Other Relevant Hearings

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

- Courtney Bennett for the Gore District Council

- Amy Beran for Hokonui Rūnanga

2.2.2 Plan provisions applying within areas subject to inundation were considered in the context of the HS11 Natural Hazards. Arising from submissions by Environment Southland this included consideration of zoning changes within areas of actual and potential inundation. In that regard, evidence from the following witnesses is relevant to matters considered in this decision:

- Brett Osborne, author of the s42A Report
- Tim Morris, of Tokin and Taylor, for the Gore District Council
- Marcus Roy, Jo Patterson and Matthew Gardner for Environment Southland

3 Settlement Zone Provisions

3.1 General

Submitter (S)	Decision Requested
S132.003 KiwiRail Holdings Ltd	Retain SETZ provisions in How the Plan works. KiwiRail supports the inclusion of Mandeville Aviation and Rail Precinct as it provides for the existing heritage aviation and rail activities and enables new activities providing effects to be appropriately mitigated
S146.086 Southland District Council	Support SETZ chapter
S123.025 Heritage New Zealand Pouhere Taonga	HNZPT is supportive of the implementation of targeted Precincts which provide for the consideration and protection of the wider historic character of each area, beyond the values of a scheduled heritage site. Adopt chapter

3.1.1 These submissions support SETZ provisions and are acknowledged. No specific changes are requested. As minor changes have been made to all of the provisions referred to, these submissions are accepted in part.

Submitter (S)	Decision Requested
S26.001 Michael Crymble	SETZ-Overview and Purpose: The airfield is the 'key element' within the Precinct. Protect the airfield and remove any hurdles which might adversely affect the airfield use and precinct activities.

3.1.2 The Panel considers that providing the Settlement zoning at Mandeville and the Mandeville Aviation and Rail Precinct recognises the special character of the area, facilitating future development. In that regard the Panel considers the PDP provisions are providing for the protection of the airfield and that the rules and standards of the Zone provide an appropriate balance between enabling use of the airfield and protecting amenity values. The Panel concludes no additional changes are required and accordingly, submission S26.001 Michael Crymble is rejected.

3.2 Settlement Zone Policies

Submitter (S)	Decision Requested
S125.065 Ministry of Education	Retain SETZ-P1 as proposed

3.2.1 This submission supports the Policy and that is acknowledged. No changes have been made to the policy and as a consequence submission S125.065 Ministry of Education is accepted.

Submitter (S)	Decision Requested
S139.072 Hokonui Rūnanga Inc	Amend SETZ-P2 to read: Require development to be of a height and bulk and have sufficient setbacks and open space to: 2. ~~maintain the underlying relationship Ngāi Tahu hold with the natural environment~~; maintain greenspace, natural drainage patterns and riparian margins

3.2.2 Joanne Skuse at paragraph 995 of her s42A Report recommends accepting this submission. The Panel agrees as the change sought more clearly sets out the outcome sought through the policy.

3.2.3 Submission S139.072 Hokonui Runanga is accepted by amending policy SETZ-P2 to read:

SETZ-P2 Require development to be of a height and bulk and have sufficient setbacks and open space to: (…)

~~2. maintain the underlying relationship Ngāi Tahu hold with the natural environment~~; maintain greenspace, natural drainage patterns and riparian margins; ~~and~~

Submitter (S)	Decision Requested
S132.159 KiwiRail Holdings Ltd	Amend SETZ-P2 as follows: 4. maintain sufficient open space to provide for landscaping, and, where needed, on-site water, wastewater and stormwater disposal stormwater management that does not result in increased flooding and erosion risk. 5. Ensures that any Building or structure must not be located within a 5m setback from a boundary with a rail corridor.

3.2.4 The heading of Policy SETZ-P2 reads as follows:

> Require development to be of a height and bulk and have sufficient setbacks and open space to:

3.2.5 The Panel considers the policy outlines the character of the Settlement Zone that is to be protected while undertaking development within the Zone and the additions sought do not fit with the intent of the policy. In response to the submission, Joanne Skuse stated at paragraph 996 of her s42A Report:

> In relation to the submissions from KiwiRail, I consider the focus of RLZ-P2 is to manage the bulk and location of buildings to achieve open space in the zone. Point 4 of the policy seeks to ensure onsite servicing is provided for. I acknowledge KiwiRail's concerns that improperly sized or maintained onsite servicing systems can result in increased flooding and erosion risk, for example, incorrectly channelised runoff can erode soil, destabilize stream banks, and increase sedimentation downstream. However, I consider a Code of Practice document is a more appropriate means of managing this through the detailed design of systems. As such, I make no amendments in this regard. For the same reasons I make no amendments to RLZ-P8.

3.2.6 The Panel agrees with the explanation of Joanne Skuse but notes that her reference to a Code of Practice should have been to the Council's Subdivision and Development Bylaw. KiwiRail in a letter to the Panel tabled at the hearing continued to seek the outcomes specified in the submissions on the basis that the Council did not have a Code of Practice. No other reasons were given and in the absence of further focused reasons this request is declined.

3.2.7 The addition sought referring to a 5m metre setback from the rail corridor in effect is seeking a rule within the policy and that is not appropriate. As set out in Decision 2, the Panel does not support a setback from the rail corridor other than provided by the zone boundaries setback.

3.2.8 Accordingly, submission S132.159 KiwiRail Holdings Ltd is rejected.

Submitter (S)	Decision Requested
S132.160 KiwiRail Holdings Ltd	Amend SETZ-P7 as follows: Ensure development does not compromise existing roading, rail and water infrastructure networks.
S132.161 KiwiRail Holdings Ltd	Amend SETZ-P8 as follows: Where practicable, incorporates low impact approaches to stormwater management that does not result in increased flooding and erosion risk.

3.2.9 Joanne Skuse at paragraph 998 of her s42A Report recommended accepting submission S132.160. The Panel adopts a slightly different approach considering it better to refer to transportation networks more generally, and to provide consistency with other decisions. In part this comes about because the Panel notes that Policy SETZ-P8 appears out of context and wonders at some stage during the drafting of the chapter whether SETZ-P7 and SETZ-P8 were one. The two policies currently read:

> SETZ-P7 Ensure development does not compromise existing roading and water *infrastructure* networks.
>
> SETZ-P8 Where practicable, incorporates low impact approaches to *stormwater* management.

3.2.10 The Panel had regard to what in SETZ-P8 incorporates low impact approaches, and the answer is development, which is referred to in SETZ-P7. That then links to a submission lodged by KiwiRail to Policy GRZ-P7 in the General Residential chapter dealing with a similar issue. Consistent with the decision made to Policy GRZ-P7 the Panel agrees that rewording of both policies in this chapter is required.

3.2.11 Submissions S132.160 and S132.161 KiwiRail Holdings Ltd are accepted by amending Policies SETZ-P7 and SETZ-P8 as follows:

> SETZ-P7 ~~Ensure development does not compromise existing roading, rail and water infrastructure networks.~~ Require developments to demonstrate sufficient infrastructure capacity or implement appropriate upgrades so that development does not compromise existing infrastructure, including transportation networks and other critical services.
>
> SETZ-P8 ~~Where practicable, incorporates low impact approaches to stormwater management.~~ Recognise the positive effects of low-impact stormwater management in enhancing environmental quality and sustainable development outcomes, while ensuring that such approaches do not increase the risk of flooding or erosion.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.174 Environment Southland	In SETZ-P10 replace "~~adequately mitigated~~" with "avoided where possible"
FS22.060 Clark Fortune McDonald & Associates	Disallow S85.174

3.2.12 Joanne Skuse in her s42A Report recommended rejecting this submission. In her view, to require avoidance rather than recognise the potential for mitigation is unduly restrictive given there are different levels of risk associated with the natural hazards in different parts of the three Settlement Zone areas. In her view, the policy framework of the Natural Hazards chapter was sufficient.

3.2.13 Marcus Roy and Gavin Guilder, appearing by video link, highlighted the provisions in the Southland Regional Policy Statement (RPS), particularly as they apply to the adoption of a precautionary approach. They referred to the hierarchy approach of RPS Policy NH.4 that states:

> ***Policy NH.4 – Management priorities***
> *In managing natural hazards, the following implementation priorities are to be adopted:*
> *1. avoid exposure to areas at significant risk from natural hazards where practicable by adopting a precautionary approach;*

2. *mitigate the effects of natural hazards by managing land use in areas known to be susceptible to the effects of natural hazards;*
3. *undertake physical works needed to reduce the potential for the natural hazard to affect people and infrastructure.*

3.2.14 Marcus Roy stressed that the effects of allowing new development, particularly in high risk areas, had economic and social impacts, as well as creating problems for future insurance of homes. He requested that the PDP send out the right signals.

3.2.15 The Panel sees merit in both sides of this issue, recognising existing development and enabling future concentration of that, while at the same time managing the actual and foreseeable natural hazard risks and their consequences. In the Panel's view the key function of the SETZ was to recognise the development that has occurred in rural townships and manage future development there, with the Natural Hazards chapter overlaying some additional restrictions where these are appropriate. However, as stated by Marcus Roy, the PDP should send the right signals and in that regard the Panel accepts some changes to the policy are warranted, but not those sought in the submission. The Panel does not consider the phrase "avoid where possible" to be suitable within a PDP Policy, given, with enough funding practically everything in this context is possible.

3.2.16 Submission S85.174 Environment Southland is accepted by amending Policy SETZ-P10 to read:

SETZ-P10 ~~Only allow~~ Avoid new activities within the Settlement Zone where ~~the effects of~~ natural hazards ~~can be adequately mitigated so the risk~~ create a danger to life and property. ~~is low,~~.

3.2.17 In the context of RMA s32AA, the Panel considers the reworded policy reflects the purpose of the RMA and is consistent with the objectives and policies of the Natural Hazards chapter of the Plan.

3.3 Settlement Zone Rules

Submitter (S)	Decision Requested
S125.066 Ministry of Education	Supports SETZ-R6 rule in part.
S125.067 Ministry of Education	Amend SETZ-R6 as follows: Educational facilities Activity status: Permitted Where:~~1. The educational facility is within an existing residential unit; and2. The activity Is for home based childcare services and the maximum number of children on the site does not exceed 8; and~~ 1. The hours of operation are generally between 7am to 7pm Monday to Sunday~~.~~ 2. complies with Settlement Zone standards SETZ-S2, SETZ-S3, SETZ-S4, SETZ-S5, SETZ-S6, SETZ-S7, SETZ-S8 and SETZ-S9 Activity status where compliance not achieved: ~~Discretionary~~ Restricted discretionary Matters of discretion are restricted to: 3. the location and design of buildings and any proposed car parking and loading areas and access; and 4. hours of operation; and 5. noise, disturbance and loss of privacy of neighbours; and 6. screening and landscaping; and 7. waste treatment and disposal.

3.3.1 The Panel acknowledges the submission in support of the rule. As the provision is being retained unchanged, submission S125.066 Ministry of Education is accepted.

3.3.2 The Panel notes the rule currently provides for small scale educational activities and considers this to be consistent with the amenity of the Settlement Zone. The Panel is of the view that allowing an educational activity of any scale within the zone to be

inappropriate as a permitted or restricted discretionary activity. Rather, it supports the discretionary activity status for non-compliance with the conditions within the existing rule. Accordingly, these submissions are rejected.

3.3.3 While the rule applies to educational activities by all government and non-government bodies, as well as private individuals, the Panel notes government primary schools are located at Pukerau and Waikaka and that the usual practice of the Crown is to designate school sites rather than rely on permissive district plan provisions. Accordingly, submission S125.067 Ministry of Education is rejected.

Submitter (S)	Decision Requested
S124.138 Fire and Emergency NZ	Retain SETZ-R7 as notified

3.3.4 The support for the rule is acknowledged. As the provision is being retained without change, submission S124.138 Fire and Emergency NZ is accepted.

3.4 Mandeville Aviation and Rail Precinct Rules

Submitter (S)	Decision Requested
S112.149 Waka Kotahi NZ Transport Agency	Support in part SETZ-PREC8-R7 but seeks amending TEMP - R1 (1) to TEMP (7) Matters of discretion: 5. The extent to which the temporary event will impact on the safety, efficiency and effectiveness of the transport network. This includes the outcome of any consultation with Waka Kotahi New Zealand Transport Agency.
S26.002 Michael Crymble	In SETZ-PREC8-R7 there should be no limits on events, however, if there are limits the amount permitted should be a maximum of 36 events per year with any single event permitted to be active for up to 7 days. Permit temporary accommodation and food and beverage for the duration of the event.
FS14.032 NZ Transport Agency Waka Kotahi	Disallow S26.002

3.4.1 The Panel accepts the reasons and recommendation of Joanne Skuse, at paragraphs 977 and 978 of her s42A Report, that S112.149 Waka Kotahi NZ Transport Agency be rejected, and notes acceptance of this by NZTA.

3.4.2 The Panel also accepts the reasons and recommendation of Joanne Skuse, at paragraphs 979 and 983 of her s42A Report, that S26.002 Michael Crymble be rejected also. In particular, the Panel considers the scale and frequency of temporary activities, allowed as a permitted activity to be appropriate, and events of a larger scale should be subject to assessment through the resource consent process. The Panel notes that for larger events a restricted discretionary activity status applies, with the matters of discretion focusing on impacts on amenity and the roading network. Further, events associated with the historic railway are permitted under rule SETZ-PREC8-R1.

Submitter (S)	Decision Requested
S112.150 Waka Kotahi NZ Transport Agency	Amend SETZ - PREC8 - R9 to insert performance standards that apply to a conference facility within the rule. These are to include clarification on the frequency of events, hours of operation, number of attendees and the type of building the conference is being undertaken in. This will provide guidance and understanding of the amount of traffic anticipated from any new facility.

3.4.3 The Panel accepts the reasons and recommendation of Joanne Skuse, at paragraphs 986 and 987 of her s42A Report, that S112.150 Waka Kotahi NZ Transport Agency be rejected. The Panel notes that NZTA was accepting of the recommendation.

Submitter (S)	Decision Requested
S26.003 Michael Crymble	Seeks that the following activities sought are provided for in SETZ-PREC8: A pilot's clubhouse building. Control tower, office and operations buildings as the need arises. Storage building facilities for securing ground equipment and airfield vehicles. Workshop and maintenance facilities. Aircraft hangarage. An aviation retail refueling facility. Airfield surface lighting to satisfy all future aviation and railway safety issues. Overnight accommodation buildings with simple catering facilities for visiting pilots and crew. Camping facilities in the interim. Retail shopping for a wide variety of aviation and railway products. Retail sale of food and beverages during events. Car parking facilities. A variety of hard standing areas to support various aviation and railway activities. Installation of ground navigation aids. Signs, notice boards, fencing and gates for public safety, to inform and guide our visitors. The construction of "railway themed" buildings and other railway infrastructure as required. The possible use of railway rolling stock to meet some of the building infrastructure needs.
FS5.174 Hamish Weir	Allow S26.003
FS14.033 NZ Transport Agency Waka Kotahi	Disallow S26.003

3.4.4 The Panel considers this submission sets out a vision of what the Mandeville Aviation and Rail Precinct could morph into over time and is supportive of that. Joanne Skuse at paragraph 966 of her s42A Report demonstrated to the satisfaction of the Panel that all of the listed activities are permitted, subject to conditions, within the Precinct. As no change is required to the rules, submission S26.003 Michael Crymble is rejected.

3.5 Settlement Zone Standards

Submitter (S)	Decision Requested
S99.037 Clark Fortune McDonald & Associates	SETZ-S1 is amended to provide for residential activity on existing sites of less than 2000m². Where compliance with density standards is not achieved, the activity status should become discretionary.
FS5.172 Hamish Weir	Allow S99.037
S99.038 Clark Fortune McDonald & Associates	Amend SETZ-S2(1) to provide for residential activity on existing sites of less than 2000m². Where compliance with density standards is not achieved, the activity status should become discretionary.

3.5.1 Ben Wilson of Clark Fortune McDonald and Associates, in his statement of evidence, referred to the number of existing sites below 2,000 square metres in the Settlement Zone townships, with approximately 40 at Pukerau, 50 at Waikaka and 30 at Mandeville. He noted very few existing sites are below 800 square metres in area.

3.5.2 Joanne Skuse in her s42A Report recommended rejecting this submission. However, in her supplementary evidence she acknowledged the extent to which smaller “quarter-acre lots” were present in the Settlement Zone towns, and recommended provision be made to enable residential use of existing sites of 1,000 square metres or more by amending the density rule to enable one residential unit per 1,000m^2 where a restricted discretionary activity consent is obtained. She considered this status important to enable consideration of onsite servicing and the potential for flood hazards.

3.5.3 The Panel accepts the evidence of Ben Wilson as to the size and number of lots within the Settlement zone below 2,000m^2 and arising from that agrees that some provision needs to be made to enable development of them. The Panel is aware that the 2,000m^2 size is the minimum area considered appropriate by the Council’s Building Control team

for an effective on-site septic tank system and represents a lot size that maintains the amenity values of the three zoned settlements.

3.5.4 The Panel also notes that the Waikaka township is served by reticulated sewerage and therefore there is no need for a control linked to use of a septic tank. In addition, the Panel considers it is appropriate to enable development on those existing lots below 2,000 m^2 while recognising that under the Operative District Plan the townships were zoned Rural, with all residential development below 2ha requiring resource consent, a situation the Panel recognises as having deterred development in the townships.

3.5.5 Having regard to the provisions of the Natural Hazards chapter following the consideration of submissions, the Panel is of the view that within the Settlement zones issues and controls related to flooding issues should be managed through the Natural Hazards chapter, particularly given Waikaka and parts of Pukerau are outside of the areas subject to actual or potential inundation. Arising from that, the Panel did not foresee a need as part of the Settlement Zone chapter to consider natural hazards as an assessment matter in the revised recommended rule.

3.5.6 Joanne Skuse at paragraph 24 of her statement of evidence stated the following:

> I consider given the townships have evolved organically it is difficult to draw a line in the sand on density. I take into account the argument that there is a common occurrence of the historic 'quarter acre' site in Pukerau, Mandeville and Waikaka. As such the character and amenity of the area is a mix of varying lots. Many 'quarter acre' sites are amalgamated and form larger landholdings for example. It is appropriate to enable residential land use on existing sites in the three settlement zones. Nonetheless, I consider onsite servicing is a factor to be considered, as well as potential flood hazards. I therefore recommend the density rule is amended to enable a density of one residential unit per 1000m^2 where a restricted discretionary activity consent is obtained. The matters of discretion are restricted to the provision of onsite servicing and the management of natural hazards.

3.5.7 The Panel places weight on the "quarter acre" (1,012m^2) size referred to by Joanne Skuse and prefers this as a trigger point, rounded to 1,000m^2, to the 800m^2 noted by Ben Wilson. Above the 1,000m^2 for existing lots served by reticulated sewerage, the Panel does not consider there is a need for a resource consent. Rather, in these circumstances it favours permitted activity status. In other respects, the Panel considers the changes to the rule can remain as recommended.

3.5.8 Submissions S99.037 and S99.038 Clark Fortune McDonald & Associates are accepted in part by amending SETZ-S1 by:

(a) including a new clause 2 into the Standard:

<u>For sites under 2,000m^2 with an area of 1,000m^2 or more, existing on [date of decision], connected to a reticulated sewerage scheme; and</u>

(a) amending the provision where compliance is not achieved:

<u>Activity status where compliance is not achieved with SETZ-S1(1):
Where:</u>

<u>4. There shall be a maximum density of one residential unit per 1000m2.</u>

<u>Restricted Discretionary</u>

<u>Matters of Discretion:</u>

<u>1. The provision of onsite services</u>

Activity status where compliance is not achieved <u>with SETZ-S1(3) and SETZ-S1(4): Non-Complying</u>

Submitter (S)	Decision Requested
S124.140 Fire and Emergency NZ	Amend SETZ-S3 as follows: And excluding emergency service facilities from this rule
S124.141 Fire and Emergency NZ	Amend SETZ-S4 as follows: Except that: (c) This standard does not apply to communication towers and poles for emergency service facilities As per the points raised in relation to SETZ-S3 Fire and Emergency seeks an exemption for communication towers and poles regarding height in relation to boundary standards.

3.5.9 Joanne Skuse at paragraph 1022 of her s42A Report commented on this submission as follows:

> In relation to the submissions from FENZ seeking various exemptions from the built form standards in the SETZ zone, and increased building coverage, I note Emergency Services Facilities are permitted in the zone (SETZ-R7). As such, I consider it is appropriate for the built form to be managed in order to ensure there is some semblance with the character of the Settlement zone. Whilst I acknowledge the operational value of towers and poles, and although FENZ have provided an image of a tower at a facility in Taupo in Appendix B of their submission there is not really any clear indication of what a 'tower' might constitute. A pole would typically be slimline and potentially therefore have limited adverse effects on adjoining landowners despite an increased height, however, a tower may be a larger structure and it may therefore be appropriate to manage this structure through a resource consent process.

3.5.10 FENZ in their submission stated the following:

> Some existing fire station sites across the country have aerial and sirens mounted on the roof of the building which is not ideal, and Fire and Emergency are slowly rectifying this with the construction of towers and poles. Ideally all stations would have a tower or structure. Fire and Emergency therefore seek an exemption from the height standard for emergency service facilities which encompasses communication towers and poles.

3.5.11 The Panel notes fire stations in the Settlement Zone are located in Pukerau and Waikaka, and both stations have a pole structure on which there is an aerial and a siren, and therefore there is no need for an exemption for these sites. Having regard to the overall principle, the Panel agrees with Joanne Skuse that any non-compliance with the rules in this regard should be considered by way of resource consent to enable the impact on amenity values to be assessed. Accordingly, submissions S124.140 and S124.141 Fire and Emergency NZ are rejected.

Submitter (S)	Decision Requested
S99.039 and S99.040 Clark Fortune McDonald & Associates	SETZ-S5 and SETZ-S6 adopt the setbacks proposed in the PDP's GRZ
FS5.173 Hamish Weir	Allow S99.039
S124.142 Fire and Emergency NZ	Retain SET-S6 as notified

3.5.12 Joanne Skuse in her s42A Report recommended rejecting submissions S99.039 and S99.040. However, in her supplementary evidence she acknowledged the extent to which smaller sites are disadvantaged by the setback rules for this Zone and as a consequence recommended amendments. As these were acceptable to Clark Fortune McDonald & Associates they have been adopted by the Hearing Panel.

3.5.13 Submission S124.142 is rejected as the rule is modified. S99.039 and S99.040 are accepted in part by amending SETZ-S5 and SETZ-S6 as follows:

SETZ-S5 Setback from side and rear boundaries

1. Any building or structure is setback a minimum of 4 2m from any side or rear boundary.

SETZ-S6 Setback from Roads

1. Any building or structure shall be setback a minimum of ~~6~~ 4m from any road boundary.

Submitter (S)	Decision Requested
S124.143 Fire and Emergency NZ	Amend SETZ-S8 as follows: Except that emergency service facilities, such as fire stations shall not exceed 50 percent per site

3.5.14 The Panel accepts the reasons and recommendation of Joanne Skuse, at paragraph 1022 of her s42A Report, that submission S124.143 Fire and Emergency NZ be rejected. In particular, the Panel noted an Emergency Service Facility is permitted within the Zone, and agreed that if the 35% site coverage, that applies to all sites in the Zone, is sought to be exceeded, then that should be considered by way of a resource consent for a restricted discretionary activity.

Submitter (S)	Decision Requested
S99.041 Clark Fortune McDonald & Associates	SETZ-S10 adopt the setbacks proposed in the PDP's GRZ

3.5.15 The Hearing Panel noted this standard only applied to the Mandeville Aviation and Rail Precinct rather than to the entire Zone. Given the amenity of that area and having regard to resource consent conditions previously applied to consents within the Precinct, the Panel considers the rule in its present form appropriate. Accordingly, submission S99.041 is rejected.

3.6 Maps

Submitter (S)	Decision Requested
S85.053 Environment Southland	Prevent any new zone changes from the current District Plan which have the potential to intensify land use change and development within a flood inundation area. This comment applies to all zones and maps.

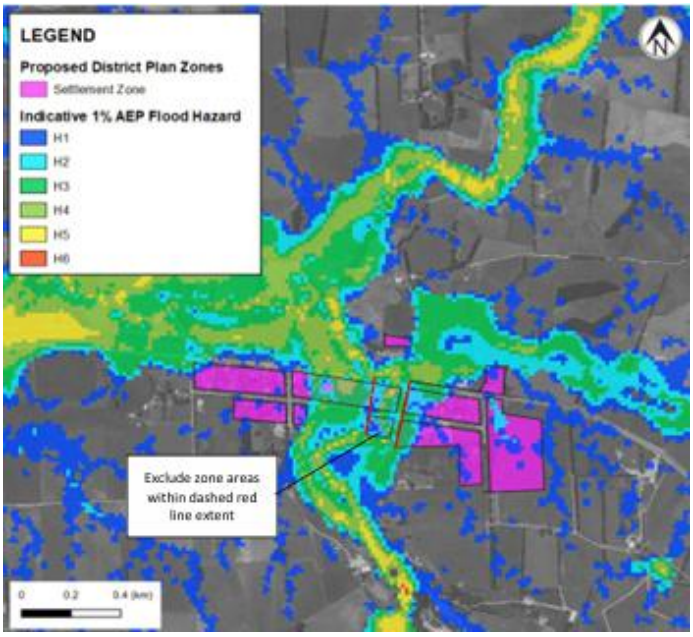
3.6.1 The approach of the Panel in having regard to this submission, noting the same submission point has been lodged to all zones, is to utilise the reports and information presented at this hearing and also at the hearing to consider submissions to the Natural Hazards chapter to determine whether the risk from inundation is significant to the extent that no “upzoning” as referred to by Marcus Roy should take place using best available information.

3.6.2 Tonkin and Taylor at the Natural Hazards hearing provided a report to the Panel assessing the flood risk in the three townships zone Settlement. Each is considered below:

Pukerau

3.6.3 The Panel notes the following extracts from the Tonkin and Taylor Report:

> A tributary of the Pukearu Stream flows through the town in the south to north direction. The tributary has a catchment area of approximately 53 km2 and NIWA Flood Statistics estimates the 1% AEP flood flow in the order of 55 m3/s. The tributary flows through the town under two road bridges and then a rail bridge before flowing into the Pukerau Stream. The capacity of these bridges has not been assessed.
>
> Some of the proposed Zones are located within the ES Significant Floodplain and T+T’s modelled flood extent indicating that the central portion of the proposed Zones may be flooded in a 1% AEP event, and therefore potentially meet the significant risk definition. Indicative flood depths in the proposed Zones are generally less than 0.5 m outside of the stream channel but 1 m or more in and near the stream.
>
> Figure 7 shows a map of the indicative flood hazard in the Pukerau area and the proposed Settlement Zones.



We recommend that the zone extents crossing the stream channel are adjusted to avoid the channel and adjacent floodplain (indicated between the red dashed lines in Figure 7). This will also allow for a corridor to implement future flood measures if required (which could include channel widening or stopbanks).

3.6.4 Joanne Skuse, having regard to this report, at paragraph 260 of her s42A Report recommended accepting the Tonkin and Taylor assessment and removing the Settlement zoning from the area between the red dashed lines. This area would then default to a rural zoning. The Panel agrees with that recommendation, noting a minor modification is required to follow a property boundary.

3.6.5 Submission S85.053 Environment Southland is accepted in part by rezoning the area of land outlined in red on the following plan as General Rural.

Waikaka

3.6.6 The Panel notes the following extracts from the Tonkin and Taylor Report:

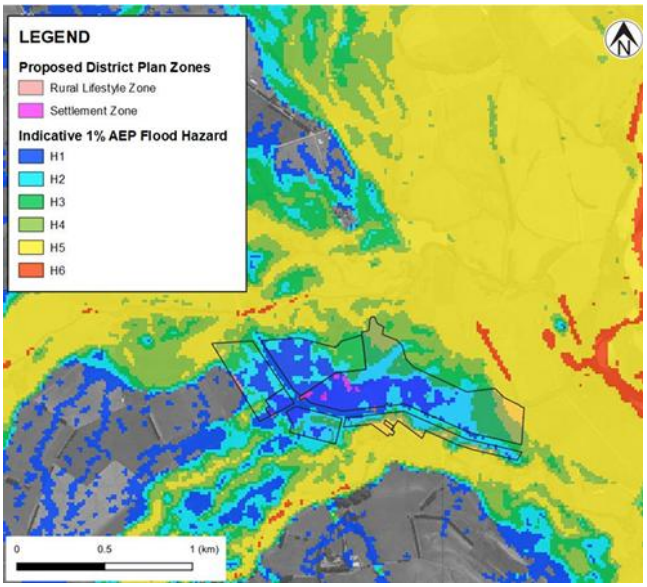
> A tributary stream of the Waikaka Stream flows along the eastern side of the town in a north to south direction. This tributary has a catchment area of approximately 20 km^2 and NIWA Flood Statistics estimates the 1% AEP flood flow in the order of 21 m^3/s.
>
> The Waikaka Stream East Branch is identified as a significant floodplain but due to the high terrain (more than 10 meters) between the river and town, the Waikaka Stream East Branch poses low risk to the proposed Zones in the 1% AEP event. Similarly, the Waikaka Stream is far enough downstream that it also poses low risk at the 1% AEP event.

3.6.7 Having regard to the report, the Panel is satisfied that no changes are required to the extent of the Settlement Zone at Waikaka.

Mandeville

3.6.8 The Panel notes the following extracts from the Tonkin and Taylor Report:

> Mandeville is located approximately 15 kilometres northwest of Gore between the Waimea Stream and Otamita Stream. The Mataura River is located to the east. The Waimea Stream has a catchment area of approximately 400 km2 and ES Hydro Statistics estimates the 1% AEP flood flow in the order of 240 m3/s. The Otamita Stream has a catchment area of approximately 160 km2 and NIWA's Flood Statistics estimates the 1% AEP flood flow estimate in the order of 190 m3/s.
>
> Almost all the proposed Zones are located within the ES Significant Floodplain and T+T's modelled flood extent indicating that most of the proposed Zones may be flooded in a 1% AEP event, and therefore meet the significant risk definition. Flooding may potentially be caused by one or more of the streams/rivers depending on the timing of flood peaks and backwater effects from the Mataura River. Indicative flood depths in the proposed Zones are generally less than 0.5 m in central areas but 1 m or more around the periphery, nearer the stream/river channels.



> Figure 5 suggests that flood hazards within the proposed Zones are generally in the lower to mid range (H1 to H3). Flood hazard in some areas around the periphery nearer the streams/river are in the mid to higher range (H4 or H5).
>
> In areas of lower hazard (indicated by H1 and H2 areas) raising building floor or ground levels could be feasible recognising that flooding of surrounding land would still occur. Around the periphery of the proposed Zones (indicated by H3 to H5 areas), raising building floor levels

may not be feasible given the deeper flood depths (in the order of 1 m or more). In these periphery areas, raising ground levels could be more feasible.

3.6.9 Neither the Tonkin and Taylor Report nor Joanne Skuse made a recommendation to amend the Settlement zoning at Mandeville. In reviewing the information shown on Figure 5 from the Tonkin and Taylor report the Panel agrees with the approach. The Panel did give consideration to the zoning of the areas with a Hazard Classification of H4 on the northern side of the highway, but these are held together with other land used for airfield purposes and included in the Mandeville Aviation and Rail Precinct. Use of the land for any other purpose would require a subdivision consent and particular regard can be given to hazards issues if that were to occur.

4. Additional Matters

4.1 Whole of Plan Submissions

Submitter (S)	Decision Requested
S139.040 Hokonui Rūnanga Inc	Wherever possible the plan provisions should specify the particular effects of concern to mana whenua to ensure the plan provisions are clear and that appropriate effects are identified and assessed, including when Hokonui Rūnanga Inc may be an affected party. Amend references to 'Ngāi Tahu values' with more detailed description of particular effects to be avoided, remedied or mitigated.
S139.091 Hokonui Rūnanga Inc	Make consequential amendments to rules that refer to 'Ngai Tahu cultural values' by adding the words: "as identified in the objectives and policies for this zone and listed in MW2.3"

4.1.1 Courtney Bennett and Amy Beran in their joint response to Minute 15 did not identify specific provisions in the Settlement Zone they considered required reviewing. Amy Beran in her Appendix G to the final hearing suggested adding a matter of discretion to SETZ-S3. However, as no submissions were lodged to this provision there is no scope to consider that matter.

4.2 Notes

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

4.3 Section 32AA

4.3.1 The s42A Reports prepared for the Rural Zones, Sites and Areas of Significance to Māori hearings included assessment of s32AA matters. In considering the submissions included in this decision, the Panel has had regard to the relevant s32AA provisions. Given the nature of changes made to the Rural Lifestyle Zone provisions, which in the view of the Panel are minor in nature, no additional s32AA assessment is required.