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 24: Medium Density Residential Zone

Hearings Panel Members

Keith Hovell

Glenys Dickson

Date of Hearing
20 – 21 August 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 Hearings Panel on the submissions and evidence considered in relation to the Medium Density Residential Zone of the Proposed Gore District Plan (PDP). The Hearings Commissioners comprising the Panel for this hearing was Commissioners Keith Hovell, Cliff Bolger and Glenys Dickson. Unfortunately, Commissioner Bolger took ill during the hearing and took no part in deliberations with regard to the matters in this decision.

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations and the underlying evaluation contained in the Section 42A Report prepared by Joanne Skuse.

1.1.3 Attached is the updated provisions for the Medium Density Residential 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 preparing this decision we have used the following abbreviations:

Full Text	Abbreviation
Fire and Emergency NZ	FENZ
Gore District Plan	Plan
Hearings Panel	Panel
KiwiRail Holdings Ltd	KiwiRail
Medium Density Residential Zone	MRZ
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

First Draft

1.3 Statutory Considerations

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

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

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

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

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

1.4 Procedural Matters

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

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

1.4.3 No procedural matters were raised at the hearing.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 Medium Density Residential Zone Hearing

2.1.1 The hearing in relation to this topic was held on 20 August 2024at the Gore District Council administration building, in Gore. Submissions with regard to the MRZ chapter were heard together with the General Residential Zone, Large Lot Residential Zone, Industrial Zones and Development Areas.

2.1.2 Prior to the hearing, the Panel received a s42A Report from Joanne Skuse that considered all submissions lodged to the General Residential Zone, Medium Density Residential Zone, Large Lot Residential Zone and Gore West Residential Development Area. Attachments to the Report included documents prepared by The Property Group, entitled:

- Gore District Plan Review Planning for Growth (June 2022)
- Gore District Plan Review Economic and Population Growth Analysis (October 2021)
- Urban Design Advice to support section 42a report for Gore District Plan residential zones (12 July 2024) authored by Fiona Whyte

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 her regarding matters contained in her s42A Report and supplementary evidence at various times during the hearing.

2.1.4 Submitters who appeared at the hearing are shown in Table 1.

Table 1. Residential Zones – Submitters Attending the Hearing

No.	Submitter	Attendees	Nature of Evidence
S85	Environment Southland	Marcus Roy	In person
S98	Southland Developers Ltd	Nick Geddes	In person
S99	Clark Fortune McDonald	Ben Wilson	In person
S77	NZ Heavy Haulage Assn	Johnathan Bhana-Thomson	In person
S134	Andrea McMillan and Tony Harper	Brett Giddens Andrea Harper	By video In person

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

- Kiwi Rail (S132)
- New Zealand Transport Agency (FS14)

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 In addition, evidence presented at the Natural Hazards (HS11) is also had regard to in considering submissions in this decision as follows:

- Brett Osborne in referring to a series of reports from Tonkin and Taylor assessing the risk of inundation in the District; and
- Tim Morris of Tonkin and Taylor on behalf of the Council
- Marcus Roy on behalf of Environment Southland

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

3 Medium Density Residential Zone Submissions

3.1 General

Submitter (S)	Decision Requested
S123.024 Heritage New Zealand Pouhere Taonga	Adopt Medium Density Residential Zone. 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. The Precincts, alongside the Historic Heritage provisions, appropriately balance the ongoing commercial and industrial use of each area while retaining the recognised historic heritage values.

3.1.1 The Panel acknowledges the submission in support of the Medium Density Residential Zone. As a consequence of Decision 41/4.4.15 Precinct 9 (Historic Dairy Factory Precinct) has been deleted. However, as the decision sought by the submitter was to adopt the Medium Density Residential Zone in general terms, S123.024 Heritage New Zealand Pouhere Taonga is accepted in part.

3.2 Medium Density Residential Zone Objectives

Submitter (S)	Decision Requested
S112.138 Waka Kotahi NZ Transport Agency S100.012 Charlton Rise Limited	Retain MRZ-O3 as notified
S124.073 Fire and Emergency NZ S132.121 KiwiRail Holdings Ltd	Retain MRZ-O5 as notified

3.2.1 The Panel acknowledges the submissions in support of the Objectives. No other submissions were lodged to these provisions and no changes have been made to them. Accordingly, these submissions are accepted.

3.3 Medium Density Residential Zone Policies

Submitter (S)	Decision Requested
S100.015 Charlton Rise Limited	Retain MRZ-P2 as notified.
S125.051 Ministry of Education	Retain MRZ-P7 as proposed.
S112.141 Waka Kotahi NZ Transport Agency	Retain MRZ-PREC7-P1 as notified

3.3.1 The Panel acknowledges the submissions in support of the Policies. No other submissions were lodged to these provisions and no changes have been made to them. Accordingly, these submissions are accepted.

Submitter (S)	Decision Requested
S112.139 Waka Kotahi NZ Transport Agency	Retain MRZ-P1 as notified
S100.014 Charlton Rise Limited	Delete policy or amend to "Enable density in line with the standard" removing the remainder of the policy. Alternatively replace 'and' with 'or' to enable development if any one of the criteria is met.

3.3.2 The Panel acknowledges the submission in support for the Policy. As a minor change has been made to the provision, submission S112.139 Waka Kotahi NZ Transport Agency is accepted in part.

3.3.3 Joanne Skuse at paragraph 330 of her s42A Report recommended accepting the submission by Charlton Rise, stating she considered this will improve the applicability of the policy and requiring compliance with all three criteria of ‘employment centres, amenities and transport routes’ is a particularly high threshold in order to enable the density of the MRZ. Joanne Skuse preferred the minor rewording suggested, and the Panel concurs.

3.3.4 Submission S100.014 Charlton Rise Limited is accepted by amending Policy MRZ-P1 as follows:

Enable density in line with the standard where they are located within easy walking distance of employment centres, amenities ~~and~~ or transport routes.

Submitter (S)	Decision Requested
S124.074 Fire and Emergency NZ	Retain MRZ-P8 as notified
S125.052 Ministry of Education	Amend MRZ-P8 as follows: Enable ~~Only allow~~ community facilities, healthcare and education activities and emergency service facilities that …

3.3.5 The Panel acknowledges the submission in support of the Policy. As changes have been made to the provision submission S124.074 Fire and Emergency NZ is accepted in part.

3.3.6 The notified rules for the MRZ provide for educational activities as a discretionary activity, and all other of the listed activities as a restricted discretionary activity. There is therefore a pathway for all these activities to obtain consent. To have a restrictive policy using the term "only allow" implies consent will only be granted in extenuating circumstances. Such a phrase is consistent with a non-complying activity but not for a restricted discretionary of discretionary activity.

3.3.7 Joanne Skuse at paragraph 336 of her s42A Report stated:

> The phrase 'only allow' is consistent with the framework of the rules for community facilities, healthcare activities and educational facilities and emergency service facilities, which is restricted discretionary or discretionary. The establishment of the activities is therefore managed by the plan and achieving the criteria outlined in the policy enables their establishment. I therefore do not consider the proposed wording from MoE is appropriate.

3.3.8 The Panel disagrees with Joanne Skuse for the reasons just given. In the Panel's view the criteria listed in the policy provide sufficiently for the matters that need to be considered in a way that is consistent with the submission lodged.

3.3.9 Submission S125.052 Ministry of Education is accepted by amending the chapeaux of Policy MRZ-P8 as follows:

Enable ~~Only allow~~ *community facilities*, *healthcare activities* and *educational facilities* and *emergency service facilities* that:

3.3.10 The Panel also notes the incorrect reference to "education facilities" that should read "educational facilities". This is amended throughout the document as a minor change under clause 16(2) of the First Schedule.

3.3.11 The Panel acknowledges the submission in support of the Policy. As the policy is subject to a minor amendment, submission S124.074 Fire and Emergency NZ is accepted in part.

Submitter (S)	Decision Requested
S124.075 Fire and Emergency NZ	Retain MRZ-P11 as notified
S112.140 Waka Kotahi NZ Transport Agency	Amend MRZ - P11 as follows: Ensure development does not compromise existing infrastructure and transportation networks, including infrastructure capacity, or will be appropriately upgraded, and, where practicable, incorporates low impact approaches to stormwater management.
S132.122 KiwiRail Holdings Ltd	Amend MRZ-P11 as follows: Ensure development does not compromise existing infrastructure networks, including infrastructure capacity, and,

	where practicable, incorporates low impact approaches to stormwater management that does not result in increased flooding and erosion risk

3.3.12 The Panel acknowledges the submission in support of the Policy. As changes have been made to the provision submission S124.075 Fire and Emergency NZ is accepted in part.

3.3.13 The Panel notes these submissions mirror those by NZTA and KiwiRail to Policy GRZ-P7 and it was the recommendation of Joanne Skuse at paragraph 260 of her s42A Report that submission S112.140 Waka Kotahi NZ Transport Agency be accepted and submission S132.122 KiwiRail Holdings Ltd be rejected. However, the Panel considers the recommended policy to be complex in its wording, and by way of Minute 19 requested a redrafting, with low impact approaches to stormwater management being considered as a separate policy incorporating the relief sought by KiwiRail. Joanne Skuse in a reply dated 10 October 2024 suggested an alternative wording that the Panel has adopted with minor changes.

3.3.14 Submissions S132.122 KiwiRail Holdings Ltd and S112.140 Waka Kotahi NZ Transport Agency are accepted in part by amending Policy MRZ-P11 and including a new policy as follows:

MRZ-P11 ~~Ensure~~ 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 ~~networks including infrastructure capacity~~

MRZ-P12 Recognise the positive effects of low-impact stormwater design in enhancing environmental quality and sustainable development outcomes, while ensuring that such approaches do not increase the risk of flooding or erosion.

Submitter (S)	Decision Requested
S112.142 Waka Kotahi NZ Transport Agency	Amend MRZ-PREC9-P1: Enable light industrial and commercial activities in the Historic Dairy Factory Precinct that; (...) 6. maintains the safe, efficient and effective operation of the surrounding transportation network including State highways.

3.3.15 As a consequence of Decision 41/4.4.15 Precinct 9 (Historic Dairy Factory Precinct) has been deleted. This policy therefore is also deleted and S112.142 Waka Kotahi NZ Transport Agency requesting a change to the policy is rejected.

3.4 Medium Density Residential Zone Rules

Submitter (S)	Decision Requested
S125.053 Ministry of Education	Submitter supports MRZ-R6 in part
S125.054 Ministry of Education	It is not reasonable to only provide for educational activities in existing residential units. Maximum number of people on site is unreasonable. Amend MRZ-R6 Educational facilities, Activity status: Permitted Where:~~1. The educational facility is within an existing residential unit or minor residential unit; and 2. The maximum number of children on site does not exceed 8.~~ 1. The hours of operation are generally between 7am to 7pm Monday to Sunday. 2. Any new or extended building or structure complies with standards MRZ-S2, MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7, MRZ-S8 and MRZ-S9. Activity status where compliance not achieved: ~~Discretionary~~ Restricted discretionary. Matters of discretion are restricted to :1. the location and design of buildings and any proposed car parking and loading areas and access; and 2. hours of operation; and 3. noise, disturbance and loss of privacy of neighbours; and4.

	screening and landscaping; and 5. waste treatment and disposal.

3.4.1 Rule MRZ-R6 provides for educational facilities as a permitted activity, subject to being within an existing residential unit or minor residential unit and with a maximum of 8 children on site. Rule MRZ-R14 lists other educational facilities as a discretionary activity. The Panel agrees with Joanne Skuse at paragraph 358 of her s42A Report that the difference in scale between the two types of educational facilities justifies a different status. There is a pathway forward for educational facilities such as kindergartens, primary and secondary schools, as a discretionary activity. While the Panel accepts that schools are widely accepted as appropriate within residential areas, assessment is required as a discretionary activity to ensure compatibility with the locality. Accordingly, submission S125.054 Ministry of Education is rejected and as there is no change to the provision submission S125.053 Ministry of Education is rejected.

Submitter (S)	Decision Requested
S125.055 Ministry of Education	Submitter supports MRZ-R8 in part
S125.056 Ministry of Education	Amend MRZ-R8 as follows: Additions to existing healthcare activities or education facilities Activity status: ~~Controlled~~ Permitted Where: 1. Any new or extended building or structure complies with standards MRZ-S2 MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7 and MRZ-S9.. ~~Matters of control: 1. Transport effects including the location and design of loading areas and access; and 2. Design and layout of on-site pedestrian connections; and 3. Hours of operation; and 4. Noise, disturbance and loss of privacy of adjacent sites; and 5. Servicing including the positive effects of low impact design~~ Activity status where compliance is not achieved: Restricted Discretionary: Matters of discretion: 1. Transport effects including the location and design of loading areas and access; and 2. Design and layout of on-site pedestrian connections; and 3. Hours of operation; and 4. Noise, disturbance and loss of privacy of adjacent sites; and 5. Servicing including the positive effects of low impact design; and 6. ~~The matters of control 1 - 5~~ 6. The matters of discretion of any infringed standard.

3.4.2 The Panel notes the following rules apply:

(a) Rule MRZ-R6 applies to educational facilities within a residential unit or minor residential unit and any additions to them as a permitted activity subject to compliance with various standards. Non-compliance with the standards triggers a discretionary activity consent.

(b) Rule MRZ-R14 lists educational facilities as a discretionary activity

(c) Rule MRZ-R12 applies to healthcare activities and any additions to them (excluding the hospital precinct) as a Restricted Discretionary Activity subject to compliance with the same standards.

(d) Rule MRZ-R8 applies to additions to any existing healthcare activities or education facilities as a controlled activity subject to compliance with the same standards.

3.4.3 The Panel considers Rule MRZ-R8 duplicates and is inconsistent with Rule MRZ-R12 with regard to healthcare activities, with extensions to healthcare activities being both a controlled activity and a restricted discretionary activity. The Ministry of Education requests extensions to healthcare activities be a permitted activity in the Zone, which under Rule MRZ-12 they are. Reference to healthcare activities is not required in Rule MRZ-R8 and can be deleted as a minor change

3.4.4 With regard to the Ministry of Education submission, Rule MRZ-R8 only needs to apply to educational facilities other than those within a residential unit or minor residential unit as extensions to these are permitted under Rule MRZ-R6(4).

3.4.5 Educational facilities such as kindergartens, primary schools and secondary schools are a discretionary activity as a consequence of not complying with Rule GRZ-R6(1). They are also listed as a discretionary activity under Rule MRZ-R14. The latter rule is not required and can be deleted. The rules in the MRZ would then mirror those of the General Residential Zone.

3.4.6 In the event a private school seeks and gains approval to establish a new educational facility and later seeks to extend the buildings, this rule as drafted provides an alternative (and more accommodating) consenting pathway to seeking a variation on a discretionary resource consent. The Panel concludes it would be inconsistent to provide permitted activity status as a follow-on to what would have been approved as a discretionary activity. The Ministry did not attend the hearing nor submit any written evidence for the Panel to consider.

3.4.7 Arising from these submissions, the Panel considers an amendment is required to Rule MRZ-R8 to clarify that extensions to educational facilities within a residential unit or minor residential unit are permitted and extensions to educational facilities that are not within a residential unit or minor residential unit are a controlled activity.

3.4.8 Submissions S125.055 and S125.056 Ministry of Education is accepted in part by:

(1) adding to Rule GRZ-R8 as follows:

2. The *educational facility* is not within a *residential unit* or *minor residential unit*

(2) deleting Rule MRZ-R14.

Submitter (S)	Decision Requested
S124.088 Fire and Emergency NZ	New fire stations in the district may be necessary in order to continue to achieve emergency response time commitments in situations where development occurs, and populations change. Amend: MRZ-R13 Emergency Services Facility Activity status: Permitted. Where: Any new or extended building or structure complies with standards MRZ-S2, MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7 and MRZ-S9.
S124.092 Fire and Emergency NZ	Retain as notified MRZ-PREC7-R2. New fire stations in the district may be necessary in order to continue to achieve emergency response time commitments in situations where development occurs, and populations change. Where compliance cannot be achieved, Fire and Emergency consider that a restricted discretionary status would provide a sufficient level of flexibility to construct and operate fire stations and the appropriate mitigation with the relevant matters of discretion

3.4.6 The Panel notes emergency service facilities (including fire stations) are listed as a restricted discretionary activity in the Medium Density Residential Zone. This recognises the functional need of locating close to the area served by the facility. The Panel considers this status appropriate so that regard can be had to the effects of any proposal, particularly on amenity values. The Panel considers an assessment of each proposal for a fire station is warranted, and no justification has been put forward by FENZ to separate fire stations from other emergency service facilities. FENZ did not attend the hearing nor submit any written evidence for the Panel to consider. Accordingly, submissions S124.088, S124.092 Fire and Emergency NZ is rejected.

3.5 Medium Density Residential Zone Standards

Submitter (S) Further Submitter (FS)	Decision Requested
S94.001 Phil Checketts	MRZ-S4 1. (b) eaves, gutters and associated downpipes on any building may intrude into the setback by ~~a maximum of 600mm.~~ a maximum of 350mm.without the need for fire rating and 600mm where there is a fire rating required under NZBC (d) a carport or garage, either standalone or attached to the residential unit may be setback a minimum of 500mm from a side or rear boundary provided that the maximum length of the building adjacent to the property boundary does ~~not exceed 6 metres~~ not exceed 8 metres and contains no doors or windows.
FS5.158 Hamish Weir	Allow S94.001 Phil Checketts

3.5.1 The Panel notes the matters raised in this submission are the same as those considered in relation to Standard GRZ-S5. The Panel adopts the same assessment and reasons, together with the decisions contained in section 3.7 of Decision 23.

3.5.2 Submission S94.001 Phil Checketts is accepted in part by amending Standard MRZ-S4 as follows:

a carport or garage, either standalone or attached to the *residential unit* may be *setback* a minimum of 500mm from a side or rear *boundary* provided that the maximum length of the *building* adjacent to the property *boundary* does not exceed ~~6~~ 8 metres and contains no doors or windows.

Submitter (S) Further Submitter (FS)	Decision Requested
S124.097 Fire and Emergency NZ	Retain MRZ-S5 as notified
S99.030 Clark Fortune McDonald & Associates	Amend MRZ-S5 to include the exception for a carport or garage does not apply to road boundaries as stated in the ODP
FS5.159 Hamish Weir	Allow S99.030 Clark Fortune McDonald & Associates

3.5.3 The Panel acknowledges the submission in support of the Standard. While other submissions were lodged to this provision no change has been made to it. Accordingly, submission S124.097 Fire and Emergency NZ is accepted.

3.5.4 The Panel notes the areas zoned Medium Density Residential in the PDP are currently zoned Residential in the Operative Plan, and under the current rules a front yard setback of 4.5 metres is required. In the Proposed Plan a setback of 2.5 metres from the front boundary 6s proposed. For the reasons set out in Decision 23, paragraphs 3.7.16 to 3.7.25 , the Panel does not support a reduction in the stated Standard. Accordingly, submission S99.030 Clark Fortune McDonald & Associates is rejected.

Submitter (S)	Decision Requested
S146.080 Southland District Council	The submitter supports MRZ-S6 and the matters of discretion

3.5.5 The Panel acknowledges the submission in support of the Standard. Changes have been made to the provision to provide for fences and to expand the matters of discretion. Accordingly, submission S146.080 Southland District Council is accepted in part.

Submitter (S)	Decision Requested
S124.098 Fire and Emergency NZ	Retain MRZ-S7 as notified

3.5.6 The Panel acknowledges the submission in support of the Standard. While other submissions were lodged to this provision no change has been made to it. Accordingly, submission S124.098 Fire and Emergency NZ is accepted.

3.6 Maps

Submitter (S) Further Submitter (FS)	Decision Requested
S146.078 Southland District Council	Review zoning classification to minimise issues adapting to climate change and flood risk. Much of the centre of Gore lies in the flood plain of the Mataura. Zoning more high ground into MRZ may be a good way of lessening the impacts of flooding long term.
FS22.072 Clark Fortune McDonald & Associates	*Disallow in part S146.078 Southland District Council. The majority of the proposed MRZ is a reflection of existing land use which is already at a higher residential density than the GRZ.*

3.6.1 The Panel notes that the Medium Density Residential Zone applies only to the Gore township and reflects the nature of the higher density of residential use within the Zone. The Panel accepts that as climate change modelling improves and a better understanding is obtained of the implications of likely heavier rainfall events are better understood, regard will need to be given to an adaptive management approach. In the meantime, the Panel through the provisions of the Natural Hazards chapter of the Plan is relying on best available information to manage development within areas potentially susceptible to inundation in event of overtopping or failure of the Mataura River flood bank.

3.6.2 The Panel has not received any information that would enable it to identify more elevated areas suitable for Medium Density Residential development, nor has the Southland District Council made any suggestions. In any case, the Panel considers the rezoning of any areas should be subject to a structured assessment and consultation process. The Panel considers this outside of the scope of the current review. Further, as set out below in response to the submission of Environment Southland the is no material difference between the zoning in the Operative and Proposed Plans.

3.6.3 As a consequence of the matters above, submission S146.078 Southland District Council is rejected.

Submitter (S)	Decision Requested
S85.050 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.

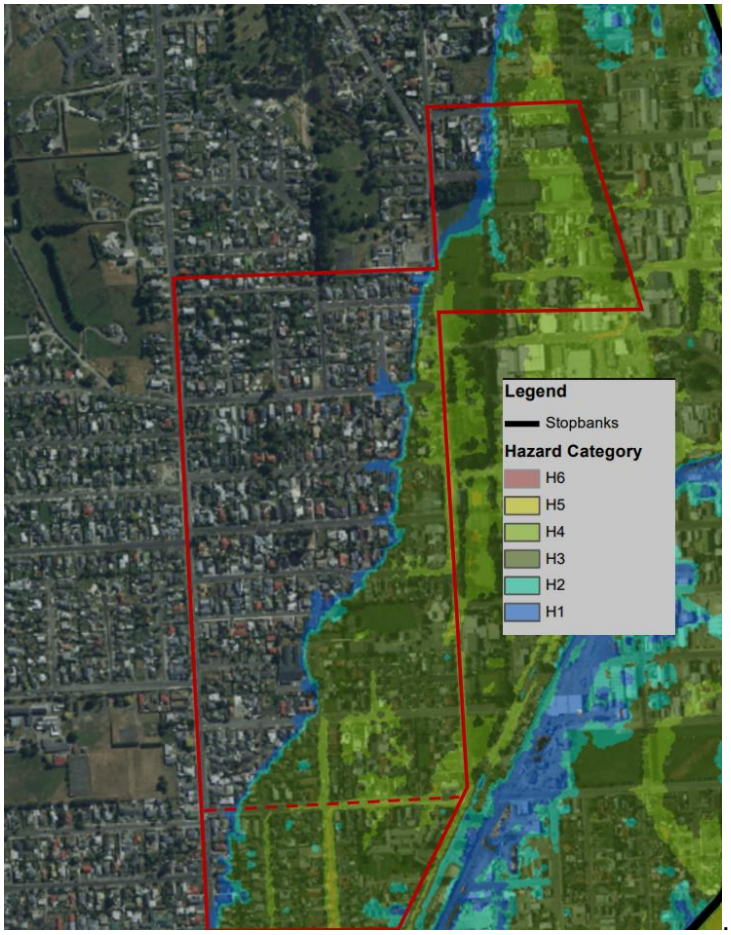
3.6.4 Marcus Roy on behalf of Environment Southland in an oral presentation to the Panel stressed the need to send the right development signals to landowners and developers within areas subject to potential or actual inundation in an enduring way that goes beyond the life of the PDP. He stated that Environment Southland has concerns with the lack of understanding that areas located behind stop banks still have a residual risk from flooding, arising from events beyond their design capacity and in event of failure. He referred to other flood events elsewhere in NZ and the growing difficulty landowners are now having in securing ongoing property insurance.

3.6.5 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.

3.6.6 The Panel therefore has compared the zoning in the Operative District Plan to that in the PDP. Generally, the land zoned MRZ corresponds to the area zoned Residential B in the Operative Plan and the respective provisions are similar in effect.

3.6.7 One additional area has been zoned MRZ in the PDP, being the land bounded by Crombie, Main, Kitchener (the northern extremity of which is shown as a dashed line on the map below) and Broughton Streets. This land shows as being subject to potential inundation in the Operative Plan. The best available information on the anticipated level of flooding in this area is the modelling results by Environment Southland provided to the Panel at the Natural Hazards Area for a flood with a 1% return period probability as shown below:



3.6.8 The additional area zoned for Medium Density Residential is comprised almost entirely of Hazard Categories H1 – H3 with a small portion of H4. This area is zoned Residential A in the Operative Plan and the Panel does not view the extent of development provided for in the PDP to represent what Marcus Roy described as an "upzoning". On the basis of descriptions provided by Environment Southland witnesses and Tonkin and Taylor in their reports, the Panel concludes that the MRZ zoning is suitable subject to management through the provisions of the Natural Hazards chapter. In reaching this view, the Panel places weight on the extent of development that has already occurred in the area and its overall view that within developed urban areas such as this a management approach incorporating use of minimum floor areas is appropriate.

3.6.7 For the reasons set out above, and considered further in Decision 44 Natural Hazards, submission S85.050 Environment Southland is rejected.

4 Additional Matters

4.1 District Wide 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 drew attention to Rules MRZ-R9 and MRZ-R10 highlighting the reference to MW-2.3 would likely require amending. Given the content of Decision 43 Sites and Areas of Significance to Māori, that is correct.

4.1.2 Consistent with the Panel's Decision 43 Sites and Areas of Significance to Māori the Panel agrees that the reference to "MW-2.3" to "MW-1.2" in Rules MRZ-R9 and MRZ-R10 and Standard MRZ-S6.

4.2 Notes

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

4.3 Section 32AA

4.3.1 The s42A Reports prepared for Residential Zones, Mana Whenua, Sites and Areas of Significance and Natural Hazards hearings included assessment of section 32AA 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 Medium Density Residential Zone chapter, which in the view of the Panel are minor in nature, no additional s32AA assessment is required.