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

---

Gore District Plan - Decisions on Submissions
Topic 32: Contaminated Land

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Date of Hearing
14 October 2024

Index

Page

1. Introduction

1.1 Scope of this Decision 1

1.2 Abbreviations 1

1.3 Statutory Considerations 1

1.4 Procedural Matters 2

2. The Hearings

2.1 Contaminated Land Hearing 2

2.2 Other Hearings 3

3. General

3.1 Interpretation 3

3.2 General Submissions 3

3.3 Note 1 4

4. Contaminated Land Provisions

4.1 Overview 4

4.2 Objective CL-O1 4

4.3 Policy CL-P1 5

4.4 Policy CL-P2 5

4.5 Policy CL-P3 5

5. Mapping of Contaminated Land

5.1 General 6

Appendix A. Submissions (attached as a separate document)

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

1 Introduction

1.1 Scope of this Decision

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

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations, and the underlying evaluation contained in the s42A Report prepared by Victoria Woodbridge.

1.1.3 Attached is the updated provisions for the Contaminated Land chapter, 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 the Panel has used the following abbreviations:

Full Text	Abbreviation
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Gore District Plan	Plan
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
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

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 No member of the Panel identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearings with regard to the Contaminated Land chapter.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 Contaminated Land Hearing

2.1.1 The hearing in relation to this topic was held on 14 October 2024 at the Gore District Council administration building, in Gore. Submissions with regard to the Contaminated Land chapter were heard together with the Hazardous Substances, Subdivision, Noise and Public Access.

2.1.2 Prior to the hearing, the Panel received a s42A Report from Victoria Woodbridge that considered all submissions lodged to the Contaminated Land chapter and relevant definitions.

2.1.3 At the commencement of the hearing, the Panel received supplementary evidence from Victoria Woodbridge 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: Hearing HS6 Contaminated Land – Submitters Attending the Hearing			
No.	**Submitter**	**Attendees**	**Nature of Evidence**
S126	Southland Federated Farmers	Rachel Thomas	Video Link
S101	Transpower NZ Ltd	Ainsley McLeod	Video Link

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

- Silver Fern Farms (S40)
- Fuel Companies (S16)

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

2.2 Other Hearings

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

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

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

3 General

3.1 Interpretation

Submitter (S)	Decision Requested
S124.001 Fire and Emergency NZ	Interpretation "contaminated land" supported

3.1.1 The submitter supports the definition. There were no opposing submissions or submissions seeking change to the provisions, so this submission is acknowledged and accepted.

3.2 General Submissions

Submitter (S)	Decision Requested
S121.043 Alliance Group Ltd S40.034 Silver Fern Farms	Retain chapter as notified
S16.035 Fuel Companies	Retain approach to include an objective and policies for contaminated land, but no rules. Retain the comment under the 'Rules' heading regarding the NESCS.
S146.014 Southland District Council	GDC to compile more information on potentially contaminated land, and a testing regime is used for areas known to have held improperly stored hazardous substances.
S85.083 Environment Southland	GDC should notify ES when identifying a new HAIL site, so that ES can update the SLUS register

3.2.1 The submissions in support from Alliance, Silver Fern Farms and the Fuel Companies are acknowledged. As changes have been made to some of the provisions in this chapter, these submissions are accepted in part.

3.2.2 With regard to submission S146.014 Southland District Council, the Panel agrees with Victoria Woodbridge at paragraph 44 of her s42A Report where she outlines the responsibility for gathering information and testing lies with Environment Southland, notwithstanding that through the resource consent and building consent processes the Gore District Council will receive relevant information on potential contamination that it then forwards to Environment Southland. The Panel also notes that information on the circumstances where hazardous substances are improperly stored is not generally known by the Council. Accordingly, submission S146.014 Southland District Council is rejected.

3.2.3 Environment Southland s85.083 seeks advice when a new HAIL site is located. That is already in place through the provisions of the Southland Regional Policy Statement with Method CONTAM.2 – Identify, investigate and manage and Method CONTAM.6 – Strategies and protocols providing for the outcome sought. Accordingly, submission S85.083 is rejected.

3.3 Note 1

3.3.1 The Panel has reviewed all Notes in the Plan as part of considering submissions to remove unnecessary duplication and determined that in this chapter, Note 1 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 Contaminated Land Provisions

4.1 Overview

Submitter (S)	Decision Requested
S121.038 Alliance Group Limited	Retain Overview as notified
S40.029 Silver Fern Farms	Retain Overview as notified

4.1.1 The submissions in support from Alliance and Silver Fern Farms are acknowledged. As the Overview is being retained without change, these submissions are accepted.

4.2 Objective CL-O1

Submitter (S)	Decision Requested
S121.039 Alliance Group Ltd S40.030 Silver Fern Farms	Retain CL-O1 as notified
S16.036 Fuel Companies	Amend CL-O1 as follows: Land that is affected by soil contamination is identified, assessed, and managed ~~and monitored~~ to minimise the risk to human health and protect the environment.

4.2.1 The submissions in support of Objective CL-O1 from Alliance and Silver Fern Farms are acknowledged. As a minor change has been made to the provision these submissions are accepted in part.

4.2.2 Submission S16.036 Fuel Companies seeks an amendment to the Objective to align with the National Environmental Standard for Contaminated Soils. In having regard to the submission, and paragraphs 54 – 57 of the s42A Report where Victoria Woodbridge highlights the provisions of s30 of the RMA, the Panel concludes that a change to the wording of the objective is appropriate, albeit different to that sought.

4.2.3 Submission S16.036 Fuel Companies is accepted in part by amending Objective CL-O1 as follows:

Land that is affected by soil contamination is identified~~,~~ and assessed, and if appropriate managed and monitored, to minimise the risk to human health and protect the *environment.*

4.3 Policy CL-P1

Submitter (S)	Decision Requested
S121.040 Alliance Group Ltd S40.031 Silver Fern Farms	Retain CL-P1 as notified
S126.063 Southland Federated Farmers of NZ S115.064 Kevin Robertson S143.075 Rural Ratepayers Group S148.076 Alistair & Bernadette Hunt S60.066 Ronald Crispin S68.184 John Baynes	Amend CL-P1: Identify sites, as per the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, that are known to contain contaminated soil as a result of current or historic land uses and activities.

4.3.1 The Panel notes the advice of Victoria Woodbridge at paragraphs 63 - 64 of her s42A Report in response to Federated Farmers and others, where she notes the NESCS provides the criteria for identifying and managing sites containing contaminated soils, and given the wording of Objective CL-O1 the addition sought is not required. The Panel acknowledges that the addition sought by the submitters would provide some additional information to the public but given the explicit reference to the NESCS in the Overview, the Panel concludes this is not necessary. Accordingly, these submissions are rejected.

4.3.2 Alliance and Silver Fern Farms support the policy. As no changes are being made to the provision submissions S121.040 Alliance Group Ltd and S40.031 Silver Fern Farms are accepted.

4.4 Policy CL-P2

Submitter (S)	Decision Requested
S101.040 Transpower NZ Ltd S121.041 Alliance Group Ltd S40.032 Silver Fern Farms	Retain Policy CL-P2 as notified.

4.4.1 The submitters support the policy. There are no opposing submissions or submissions seeking change to the provision, so these submissions are acknowledged and accepted in part subject to a minor correction to clarify that it is the landowner or person rather than the applicant that is responsible for addressing contamination.

4.5 Policy CL-P3

Submitter (S)	Decision Requested
S121.042 Alliance Group Ltd S40.033 Silver Fern Farms S101.102 Transpower NZ Ltd	Retain CL-P3 as notified
S122.003 Fulton Hogan	Add to Policy CL-P3: 9. minimisation of waste to landfill, provided that the health and safety of people and protection of the environment are achieved

4.5.1 The submissions in support of Policy CL-P3 from Alliance, Silver Fern Farms and Transpower are acknowledged. As changes have been made to the provision these submissions are accepted in part.

4.5.2 The Panel agrees with Victoria Woodbridge at paragraph 73 of her s42A Report in response to Fulton Hogan where she stated minimising waste is desirable, but that is unrelated to the focus of this chapter on contaminated land. Accordingly, submission S122.003 Fulton Hogan is rejected.

Submitter (S)	Decision Requested
S139.053 Hokonui Rūnanga Inc	Amend Policy CL-P3 clause 3 to read: 3. The values of site - including, heritage, archaeological and biodiversity values ~~and values to Māori communities~~, whakapapa, mauri and effects on any wāhi tapu, mahinga kai or other customary uses.

4.5.3 Victoria Woodbridge relied on advice from Hokonui Rūnanga as to the best approach for managing effects on Ngāi Tahu cultural values. Evidence received from Courtney Bennett and Amy Beran in HS8 and HS9A included an analysis of notified Policy CL-P3 and FDZ-P6 in relation to Ngāi Tahu cultural values, relying on the wording requested in the Hokonui Rūnanga submission without further modification. However, the Panel preference is to refer to Ngāi Tahu cultural values "listed in MW1.2", consistent with Decision 14 and Decision 43. That wording does fit well within the notified clause 3, so the Panel has added a further standalone clause.

4.5.4 Submission S139.053 Hokonui Rūnanga Inc is accepted in part by:

(a) amending clause (3) of Policy CL-P3 as follows:

3. The values of site - including, heritage, archaeological and biodiversity values ~~and values to Māori communities.~~

(b) adding a further clause to Policy CL-P3 as follows:

4. impacts on Ngāi Tahu cultural values listed in MW-1.2

5. Mapping of Contaminated Land

5.1 General

Submitter (S) Further Submitter (FS)	Decision Requested
S121.002 Alliance Group Ltd	Retain Map provisions as notified
FS28.073 Kainga Ora	Allow S121.002

5.1.1 The submitters support the approach of showing contaminated land on the District Plan maps. There were no opposing submissions, so these submissions are accepted.