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 36: Subdivision

Hearings Panel Members

Keith Hovell

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Date of Hearing
14 October 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 Subdivision chapter of the Proposed Gore District Plan. The Hearings Commissioners comprising the panel for this hearing were Commissioners Keith Hovell, Cliff Bolger and Glenys Dickson.

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

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

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

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

1.1.6 As additional provisions (policies and rules) have been added to the Subdivision chapter as a result of decisions on submissions lodged, consequential re-numbering of provisions through the chapter is required. For the purposes of this decision and in referring to submissions, the notified numbering of provisions is referred to at all times unless otherwise stated.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel has used the following abbreviations:

Full Text	Abbreviation
Clark Fortune McDonald & Associates	Clark Fortune
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Fire and Emergency New Zealand	FENZ
Gore District Plan	Plan
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
KiwiRail Holdings Ltd	KiwiRail
New Zealand Transport Agency Waka Kotahi	NZTA
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under RMA section 42A	s42A Report

Resource Management Act 1991	RMA
RMA section	s
Southland Federated Farmers of NZ	Federated Farmers
Transpower NZ Ltd	Transpower

1.3 Statutory Considerations

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

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

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

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

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

1.4 Procedural matters

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

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 Subdivision 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 Subdivision chapter were heard together with the Hazardous Substances, Public Access, Noise and Contaminated Land.

2.1.2 Prior to the hearing, the Panel received a s42A Report from Joanne Skuse that considered all submissions lodged to the Subdivision chapter and relevant definitions.

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: Hearing HS5 Subdivision – Submitters Attending the Hearing

No.	Submitter	Attendees	Nature of Evidence
S126	Federated Farmers	Rachel Thomas	Video Link
S112	NZTA	Helen Dempster	Video Link
S132	KiwiRail	Kristen Gunnell Michelle Grinlinton-Hancock	Video Link Video Link
S99	Clark Fortune	Ben Wilson Nick Geddes	In person Video Link

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

- Alliance Group Ltd (S121)
- Department of Conservation (S109)
- Silver Fern Farms Limited (S40)
- Transpower NZ Ltd (S101)
- Fire and Emergency NZ (S124)

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

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 The hearing to consider submissions to the Natural Hazards chapter of the PDP included consideration of the provisions in the Plan relating to the subdivision of land within areas subject to natural hazards. This is recorded in Decision 44 Natural Hazards. Evidence presented at that hearings from the following persons has been had regard to in considering the submissions to the Subdivision chapter:

- Brett Osborne, author of the s42A Report
- Marcus Roy, for Environment Southland

2.2.3 The hearing to consider submissions to the Ecosystems and Indigenous Biodiversity chapter of the PDP also included consideration of the provisions in the Plan relating to the subdivision of land. Evidence presented at that hearings from the following persons has been had regard to in considering the submissions to the Subdivision chapter:

- Matt Heale, author of the s42A Report

- Claire Perkins for Stoney Creek Station Ltd
- Elizabeth Williams for Department of Conservation

3 General

3.1 Interpretation

Submitter (S)	Decision Requested
S126.003 Southland Federated Farmers of NZ S115.004 Kevin Robertson S143.015 Rural Ratepayers Group S148.016 Alistair & Bernadette Hunt S60.006 Ronald Crispin S68.124 John Baynes	Retain access strip definition as notified
S109.015 Department of Conservation	Retain wetland definition as notified
S126.052 Southland Federated Farmers of NZ S115.053 Kevin Robertson S143.064 Rural Ratepayers Group S148.065 Alistair & Bernadette Hunt S60.055 Ronald Crispin S68.173 John Baynes	Retain wetland definition as notified

3.1.1 There were no opposing submissions or submissions seeking change to the provisions above that are supported. Accordingly, these submissions are acknowledged and accepted.

3.2 General Subdivision Submissions

Submitter (S)	Decision Requested
S146.054 Southland District Council	The submitter supports the objective and policy additions.

3.2.1 The support of Southland District Council for the objectives and policies of the Subdivision chapter is acknowledged. As changes have been made to various provisions as a consequence of submissions lodged, this submission is accepted in part.

Submitter (S)	Decision Requested
S140.013 Robina Johnston	Considers that location, design and construction of infrastructure for subdivision should be in collaboration with all parties concerned when applying for consent to achieve suitable results.

3.2.2 As noted by Joanne Skuse at paragraph 54 of her s42A Report, the location, design and construction of infrastructure for subdivision is undertaken collaboratively between the relevant parties on a case-by-case basis dependant on the specifics of the subdivision application and who may be affected. As a consequence, submission S140.013 Robina Johnston is accepted in part to the extent that the submitter has described what occurs in practice.

Submitter (S) Further Submitter (FS)	Decision Requested
S99.016 Clark Fortune McDonald & Assoc	Non-complying activity status is considered to be a test which is impractical and inappropriate. Activity status where compliance not achieved is reworded to be a discretionary status
FS5.70 Hamish Weir	*Allow S99.016 Clark Fortune McDonald & Assoc*

3.2.3 Joanne Skuse at paragraph 68 of her s42A Report, where she stated:

> I have undertaken a full review of the chapter considering the resultant activity status if the rules are not complied with. Through this review, I identified some subdivision activity rules, particularly the controlled activities, which are proposed to fall into the 'All other subdivision', rule if they could not meet the controlled activity standards. The 'All other

subdivision' rule would require standards such as minimum lot size and dimension to be met, which may lead to a non-complying activity status for conversion of cross lease to freehold, or alteration to a cross lease plan for example. As such, I have made recommendations to amend the activity status of these rules, where compliance cannot be achieved, to discretionary

3.2.4 The Panel notes that all subdivisions require consent. The Panel understands the concerns of Ben Wilson and Nick Geddes raised at the hearing relate to the rigor applied to the objectives and policies when considering a non-complying activity and the requirement of the RMA not to be contrary to those provisions. While the Panel considers the objectives and policies should provide a basis for considering subdivision applications, it accepts, particularly with regard to those subdivisions of minimal impact, that status of non-complying can be overly rigid. The Panel agrees with the approach adopted by Joanne Skuse to review the status of the rules in this chapter having regard to the concerns raised that ae considered further throughout this decision. Submission S99.016 Clark Fortune McDonald & Assoc is therefore accepted in part by adopting the changes made to the status of rules throughout the Subdivision chapter of the Plan.

4 Subdivision Objectives and Policies

4.1 Standalone Submissions in Support

Submitter (S) Further Submitter (FS)	Decision Requested
S132.053 KiwiRail Holdings Ltd	Retain SUB-O1 as proposed.
S132.054 KiwiRail Holdings Ltd	Retain SUB-O2 as proposed.
S124.025 Fire and Emergency NZ S154.042 Spark NZ Trading Ltd S32.042 One NZ Group Ltd S33.042 FortySouth S37.042 Connexa Ltd S35.042 Chorus NZ Ltd	Retain SUB-P2 as notified
FS21.080 Yrless Ltd	*Allow S35.042 Chorus NZ Ltd*
S115.118 Kevin Robertson S143.129 Rural Ratepayers Group S148.130 Alistair & Bernadette Hunt S60.120 Ronald Crispin S68.238 John Baynes S126.117 Southland Federated Farmers of NZ	Retain SUP-P8 as drafted.
FS22.007 Clark Fortune McDonald & Assoc	*Allow S126.117 Southland Federated Farmers of NZ*
S121.060 Alliance Group Ltd S40.041 Silver Fern Farms	Retain SUB-P19 as notified
S132.058 KiwiRail Holdings Ltd	Retain SUB-P21 as proposed.
S74.015 Hamish Weir	Retain SUB-R2
S132.060 KiwiRail Holdings Ltd	Retain SUB-R2 as proposed.
FS12.002 Fuel Companies	*Allow S132.060 KiwiRail Holdings Ltd*
S112.081 Waka Kotahi NZ Transport Agency	Retain SUB-R12 as notified
FS22.023 Clark Fortune McDonald & Assoc	*Disallow S112.081 Waka Kotahi NZ Transport Agency*

4.1.1 There were no opposing submissions or submissions seeking change to the provisions above that are supported. Accordingly, these submissions are acknowledged and accepted.

4.2 Objective SUB-O3

Submitter (S) Further Submitter (FS)	Decision Requested
S154.041 Spark NZ Trading Ltd S32.041 One NZ Group Ltd S33.041 FortySouth	Retain SUB-O3 as notified

S37.041 Connexa Ltd S35.041 Chorus NZ Ltd	
FS21.079 Yrless Ltd	*Allow S35.041 Chorus NZ Ltd*
S112.076 Waka Kotahi NZ Transport Agency	Amend SUB-O3 to Infrastructure required to serve the subdivision of land is provided in an integrated, efficient and coordinated manner and is accommodated within existing infrastructure networks including any upgrades required. Or insert a new objective.
FS5.71 Hamish Weir	*Disallow S112.076 Waka Kotahi NZ Transport Agency*
S132.055 KiwiRail Holdings Ltd	Amend SUB-O3 as follows: Infrastructure required to serve the subdivision of land is provided in an integrated, efficient and coordinated manner. Existing infrastructure has capacity or is upgraded to serve the subdivision.

4.2.1 The submissions in support of Objective SUB-O3 are acknowledged and accepted as no amendments are made to SUB-O3.

4.2.2 The Panel agrees with Joanne Skuse at paragraph 125 of her s42A Report where she stated that the additions sought in submissions by NZTA and KiwiRail are unnecessary and are provided for within the bounds of the Objective as worded. It is the view of the Panel that the additions sought would narrow the scope of the Objective. Accordingly, submissions S112.076 Waka Kotahi NZ Transport Agency and S132.055 KiwiRail Holdings Ltd are rejected.

4.2.7 The Panel notes that neither NZTA nor KiwiRail commented on these submissions in their evidence at the Hearing.

4.3 Objective SUB-O4

Submitter (S)	Decision Requested
S109.093 Department of Conservation	Retain SUB-O4 as notified
S125.032 Ministry of Education	Supports SUB-O4
S125.033 Ministry of Education	Add 4. provides for sufficient infrastructure, including social infrastructure, to serve the additional development.

4.3.1 The submissions in support are noted. As changes have been made to the Objective in response to other submissions these submissions are accepted in part.

4.3.2 The Panel considers the focus of Objective SUB-O4 is the design of subdivisions and that the provision of infrastructure is dealt with in Policy SUB-P7, which in response to a submission from the Ministry of Education has been amended to refer to social infrastructure. Accordingly, submission S125.033 Ministry of Education is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S101.063 Transpower NZ Ltd	Amend Objective SUB-O4 to recognise the potential impact of subdivision on the National Grid in a manner that gives effect to Policies 10 and 11 of the NPSET. as follows: SUB-O4 Subdivisions are designed and developed in a way that: 1. protects significant physical**,** natural, ecological, historical and cultural features, values and resources,
S126.115 Southland Federated Farmers of NZ S115.116 Kevin Robertson S143.127 Rural Ratepayers Group S148.128 Alistair & Bernadette Hunt S60.118 Ronald Crispin S68.236 John Baynes	Amend SUB-O4 to include: 4. recognises and protects areas of highly productive land.
FS5.73, FS5.74, FS5.75, FS5.76, FS5.77, FS5.78 Hamish Weir	*Disallow S126.115 Southland Federated Farmers of NZ, S115.116 Kevin Robertson, S60.118 Ronald Crispin, S143.127 Rural Ratepayers Group, S148.128 Alistair & Bernadette Hunt, S68.236 John Baynes*

4.3.3 The Panel agrees with Joanne Skuse at paragraph 132 of her s42A Report where she recommended the inclusion of the word "physical" in response to the Transpower submission.

4.3.4 With regard to the submissions by Federated Farmers and others, Joanne Skuse at paragraph 129 of her s42A Report stated:

> I consider clause 1 of the objective would encompass highly productive land as a significant natural resource. This is given effect to by policy SUB-P13 which requires subdivision in the General Rural zone to preserve the productive capability of rural land and high value soils. I therefore reject the submission points, noting however that in my opinion the relief sought is already achieved by the objective wording and no amendments are necessary.

4.3.4 Federated Farmers at paragraph 47 of their evidence presented at the hearing advised acceptance of that outcome provided clause (1) is amended to be consistent with the definition of "natural and physical resources" in the Plan. The Panel agrees, and as noted by Joanne Skuse in her Supplementary Evidence rewording of the latter part of the clause is also required.

4.3.5 Submissions S101.063 Transpower NZ Ltd and S126.115 Southland Federated Farmers of NZ and others are accepted in part by amending Objective SUB-O4(1) as follows:

(1) protects significant natural and physical resources, ecological, historical and cultural features and values. ~~and resources.~~

Submitter (S) Further Submitter (FS)	Decision Requested
S139.061 Hokonui Rūnanga Inc	Amend SUB-O4(2) to read: "Subdivisions are designed and developed in a way that: ... 2. ~~recognises and provides for the underlying relationships between Ngāi Tahu and the natural environment~~ works with the natural contours of the land and drainage patterns, maintains or enhances wetlands, indigenous vegetation and other taonga on-site, maintains or enhances mahinga kai values, and protects wāhi tapu from inappropriate access or disturbance; and
FS5.72 Hamish Weir	*Disallow S139.061 Hokonui Rūnanga Inc*

4.3.6 Joanne Skuse at paragraph 130 of her s42A Report recommended accepting this submission in part. She supports the latter portion of the addition sought because it provides certainty as to the issues of potential concern. However, she did not consider the earlier portion was necessary as it is encompassed in clause (1) of the Objective. Evidence from Hokonui Rūnanga in later hearings did not make explicit reference to this provision and therefore the Panel agrees with the recommendation and adopts it for the reasons given by Joanne Skuse.

4.3.7 Submission S139.061 Hokonui Rūnanga Inc is accepted in part by amending Objective SUB-O4(2) as follows:

(2) ~~recognises and provides for the underlying relationships between Ngāi Tahu and the natural environment~~ maintains or enhances mahinga kai values, wetlands and taonga and protects wāhi tapu from inappropriate access or disturbance.

4.4 Objective SUB-O5

Submitter (S) Further Submitter (FS)	Decision Requested
S126.116 Southland Federated Farmers of NZ S115.117 Kevin Robertson S143.128 Rural Ratepayers Group	Amend SUB-O5: Esplanade reserves and strips are created through subdivision for the purposes stated in section 229 of the Resource

S148.129 Alistair & Bernadette Hunt S60.119 Ronald Crispin S68.237 John Baynes	Management Act 1991. ~~to contribute to the protection of ecological values and cultural values, provide natural hazard mitigation, and provide for public access to and along rivers~~

4.4.1 Joanne Skuse at paragraph 140 of her s42A Report noted there are no rules relating to esplanade reserves and strips within the Proposed Plan and agreed that reference to RMA s229 would provide a better guide to those seeking to subdivide land than the notified wording. The Panel considered expanding the policy to provide a better explanation of s229 but could not achieve that in a concise manner. It therefore accepts the recommended change as sought by the submitter.

4.4.2 Submissions S126.116 Southland Federated Farmers of NZ and others are accepted by amending Objective SUB-O5 as follows:

Esplanade reserves and strips are created through subdivision for the purposes stated in section 229 of the Resource Management Act 1991. ~~to contribute to the protection of ecological values and cultural values, provide natural hazard mitigation, and provide for public access to and along rivers.~~

Submitter (S) Further Submitter (FS)	Decision Requested
S85.102 Environment Southland	Establish a new policy which takes a precautionary approach to subdivisions in areas prone to natural hazard risk.
FS5.80 Hamish Weir *FS22.003 Clark Fortune McDonald & Assoc*	*Disallow S85.102 Environment Southland*

4.4.3 The Panel agrees that a precautionary approach is appropriate when considering the risk from natural hazards, but it should apply both at the time of subdivision and in considering land use changes. As a consequence, the Panel agrees that a policy is required in the Plan but that it should be included in the Natural Hazards chapter, as provided for by Decision 44 at paragraph 5.10.3. Inclusion of a provision just in this chapter overlooks the wider scope that the issue requires.

4.4.4 Submission S85.102 Environment Southland is accepted in part by including the following policy in the Natural Hazards chapter, as provide for in Decision 45, paragraph 5.10.3:

NH-P1 Adopt a precautionary approach and use best available information when assessing the risk from natural hazards

4.5 Policy SUB-P3

Submitter (S) Further Submitter (FS)	Decision Requested
S100.001 Charlton Rise Ltd	Remove "avoid" from policy. Or use "or" as per SUB-P5.
FS5.82 Hamish Weir *FS28.036 Kainga Ora*	*Allow S100.001 Charlton Rise Ltd*
S101.064 Transpower NZ Ltd	The policies fail to appropriately address the potential impacts of subdivision on the National Grid in a manner that gives effect to the NPSET (and particularly Policies 10 and 11). Amend Policy SUB-P3 as follows: "SUB-P3 Ensure subdivisions are designed to avoid and manage effects from site constraints, including but not Ltd to topography, ~~the national grid,~~ and significant natural areas." Add SUB-PX. Avoid subdivision in the National Grid subdivision corridor where future activities may result in adverse effects on the National Grid, including reverse sensitivity effects, that would compromise the operation, maintenance, upgrading and development of the National Grid.
FS5.81 Hamish Weir	*Disallow in part S101.064 Transpower NZ Ltd. The word 'avoid' should be removed.*

FS28.035 Kainga Ora	*Disallow S101.064 Transpower NZ Ltd*

4.5.1 The Panel agrees with Ainsley McLeod at paragraphs 28 to 36 of her evidence where she proffers that the policies in the subdivision chapter fail to appropriately address the potential impacts of subdivision on the National Grid in a manner that gives effect to the National Policy Statement on Electricity Transmission (NPSET). The submission from Transpower sought removal of reference to the National Grid and insertion of a new policy. Joanne Skuse in her s42A Report did not support this outcome, but following receipt of evidence, in her supplementary evidence she altered her view to one of support. The Panel accepts this is the appropriate outcome for the reasons given by Transpower.

4.5.2 The Panel also agrees with Joanne Skuse at paragraph 151 of her s42A Report where she stated, "the policy is illogical as you cannot 'manage' an effect that is required to be avoided". She then recommended a rewording of the policy as follows:

> Ensure *subdivisions* are designed to avoid, remedy or mitigate ~~and manage~~ *effects* from *site* constraints etc.

4.5.3 The Panel does not agree with the recommended rewording, considering the word "ensure" is out of context. The Panel also notes and agrees with the evidence presented at the hearing by Transpower where Ainsley McLeod recommended deletion of the word "ensure".

4.5.4 The Panel does not accept it is appropriate to avoid, remedy or mitigate the effects of subdivision within significant natural areas. The recommended rewording weakens the notified requirement in SUB-P3 to avoid effects within significant natural areas and is inconsistent with SUB-P18. Having regard to SUB-P18 as amended, the Panel concludes reference to significant natural areas is not required in SUB-P3 and should be deleted.

4.5.5 The Panel is mindful of the wording use in the Overview of the Subdivision chapter, where it is stated:

> It is important that the design and layout of a *subdivision* responds to any constraints on the ability for the *allotment* to be developed. Constraints may include natural, cultural, historical or ecological features, contamination or *natural hazard* risk within or adjoining the *site*, and the ability to service the *allotments*, without compromising or adversely impacting other *infrastructure*.

4.5.6 The Panel is also mindful of Objective SUB-O4(3) that seeks subdivisions to be designed and developed in a way that responds to the physical characteristics and constraints of the site and surrounding environment, and the desirability of including a policy in the Plan to link the objective and rules, otherwise the Panel would delete the policy altogether.

4.5.7 Having regard to the submissions and the discussion above, the Panel is guided by the wording of the Overview in the redrafting of the Policy and in adding a further policy.

4.5.8 Submissions S100.001 Charlton Rise Ltd and S101.064 Transpower NZ Ltd are accepted in part by:

(a) amending Policy SUB-P3 as follows:

> ~~Ensure~~ Design and layout *subdivisions* ~~are designed to~~ so as to avoid, remedy or mitigate ~~and manage *effects* from *site* constraints, including but not limited to topography, the *national grid,* and *significant natural* *areas*~~ any constraints on the ability for *allotments* created to be developed.

(b) including a new policy as follows:

SUB-P22 Avoid *subdivision* in the *National Grid subdivision corridor* where future activities may result in adverse effects on the *National Grid*, including *reverse sensitivity* effects, that would compromise the operation, maintenance, upgrading and development of the *National Grid*.

4.6 Policy SUB-P4

Submitter (S)	Decision Requested
S85.103 Environment Southland	Recognise that natural hazard mapping is not entirely accurate and a precautionary approach to development should be taken. Include "medium, high and" in front of significant natural hazards ....

4.6.1 The Panel agrees with Joanne Skuse at paragraph 154 of her s42A Report where she notes there is no framework in the Proposed Plan or the Regional Policy Statement to determine a sliding scale of hazard risk. In the Panel's view, it is either significant or not. Joanne Skuse refers to the provisions of the Regional Policy Statement that directs the avoidance of exposure to areas at significant risk from natural hazards where practicable, and to mitigate the effects of natural hazards by managing land use in areas known to be susceptible to the effects of natural hazards. The Panel agrees with Joanne Skuse that in this respect Policy SUB-P4 is reflective of the higher order documents. Accordingly, submission S85.103 Environment Southland is rejected.

4.7 Policy SUB-P5

Submitter (S) Further Submitter (FS)	Decision Requested
S35.043 Chorus NZ Ltd S33.043 FortySouth S37.043 Connexa Ltd S154.043 Spark NZ Trading Ltd S32.043 One NZ Group Ltd	Amend SUB-P5 as follows Ensure reverse sensitivity effects from subdivision on adjacent critical infrastructure and land use are avoided, remedied or mitigated or managed, ~~including from adjacent land uses, railway lines and States Highways.~~
FS28.039, FS28.043, FS28.044, FS28.045 Kainga Ora	*Disallow S35.043 Chorus NZ Ltd, S33.043 FortySouth, S37.043 Connexa Ltd, S154.043 Spark NZ Trading Ltd*
FS29.041, FS29.044, FS29.045, FS29.042 Silver Fern Farms Ltd	*Disallow in part S35.043 Chorus NZ Ltd and S37.043 Connexa Ltd, S154.043 Spark NZ Trading Ltd, S32.043 One NZ Group Ltd If submission is accepted, it would be more appropriate to say "... on adjacent land uses, including critical infrastructure..."*
FS21.081 Yrless Ltd	*Allow S35.043 Chorus NZ Ltd*
FS29.043 Silver Fern Farms Ltd	*Disallow in part S33.043 FortySouth*
S112.07**7** Waka Kotahi NZ Transport Agency	Retain as notified with minor correction to wording States Highways to read State highways
S40.040 Silver Fern Farms S121.059 Alliance Group Ltd	This policy appears to slightly misapply the concept of "reverse sensitivity". Amend as follows: Ensure reverse sensitivity effects from subdivision are avoided or managed, including ~~from~~ on adjacent land uses, railway lines, and States Highways.
FS28.040, FS28.041, FS28.042 Kainga Ora	*Allow in part S40.040 Silver Fern Farms and S121.059 Alliance Group Ltd The policy should be drafted to be clear on what effects are being managed, and what activities are being affected.*
S132.056 KiwiRail Holdings Ltd	Amend as follows: Ensure reverse sensitivity effects from subdivision are avoided or managed, including from adjacent land uses, to protect the function and operation of railway lines and States Highways.

4.7.1 The Panel agrees with the assessment of these submissions by Joanne Skuse at paragraphs 164-168 of her s42A Report to the extent that grammatical and other wording changes are required to this policy to convey its intended meaning. The Panel also agrees with Chorus and others that the policy should apply to all critical infrastructure as defined in the Proposed Plan, not just to railways and state highways which are included in that definition of critical infrastructure.

4.7.2 Joanne Skuse at paragraph 168 of her s42A Report advised the Panel that the additional wording sought by KiwiRail is not necessary as reverse sensitivity, by definition, concerns the functioning and operation of activities. The Panel agrees and accordingly submission S132.056 KiwiRail Holdings Ltd is rejected.

4.7.3 In considering the recommended rewording of the policy sought by Chorus and others, the Panel considers a minor alteration is required for clarity.

4.7.4 Submissions S35.043 Chorus NZ Ltd and others, S112.07**7** Waka Kotahi NZ Transport Agency, S40.040 Silver Fern Farms and S121.059 Alliance Group Ltd are accepted in part by rewording Policy SUB-P5 as follows:

~~Ensure~~ Avoid, remedy or mitigate *reverse sensitivity effects* from *subdivision* on adjacent land uses, including *critical infrastructure*. ~~are avoided or managed, including from adjacent land uses, railway lines and States Highways~~

4.8 Policy SUB-P7

Submitter (S) Further Submitter (FS)	Decision Requested
S125.034 Ministry of Education	Supports SUB-P7
S154.044 Spark NZ Trading Ltd S32.044 One NZ Group Ltd S33.044 FortySouth S37.044 Connexa Ltd S35.044 Chorus NZ Ltd S124.026 Fire and Emergency NZ	Retain SUB-P7 as notified
FS28.046 Kainga Ora	*Disallow S35.044 Chorus NZ Ltd. The policy should be clear on what effects are being managed*
S125.035 Ministry of Education	Amend as follows: 1. Ensuring infrastructure networks, including social infrastructure, have sufficient capacity to accommodate the additional development, and requiring any necessary upgrades to be completed at the time of subdivision;
S132.057 KiwiRail Holdings Ltd	Amend SUB-P7 as follows: Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in ~~an~~ a safe, efficient, integrated and co-ordinated manner by: Add 10. Ensure that subdivision designs provide for the treatment and safe disposal of stormwater that does not result in increased flooding and erosion risk.
S112.078 Waka Kotahi NZ Transport Agency	Amend SUB-P7 as follows: Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in an safe, efficient, integrated and coordinated manner by: ... 9. Encouraging subdivision layout and orientation which supports energy efficiency including active travel (walking and cycling) and conservation for future land uses. Add 10. Ensuring subdivision design that includes a stormwater system avoids any adverse effects on the safe, efficient and effective operation and function of land transport infrastructure.

4.8.1 The submissions supporting the policy are acknowledged. As changes have been made to the provision in response to other submissions, these submissions are accepted in part.

4.8.2 The Panel generally accepts the assessment of Joanne Skuse at paragraphs 182 – 185 of her s42A Report recommending additions to the Policy in response to the submissions by Ministry of Education, KiwiRail and NZTA. Given the Policy commences with the word “ensure”, the Panel considers that word should not then be used in the various paragraphs that follow. Minor changes are therefore made to the recommended additions, for this reason and clarity, together with a consequential change to paragraph 1.

4.8.3 In relation to NZTA seeking inclusion of reference to active travel, Joanne Skuse advised that in her view clause 5 of the policy adequately encourages active travel and as such did not consider the inclusion in clause 9 is necessary. In addition, while agreeing the policy would be improved by referring to stormwater management in subdivision design, she considered the focus should not be so narrow as to consider only the effects on the transport network as poor stormwater management can lead to increased flooding, erosion, and degradation of water quality, which affects not only infrastructure but also private property, public safety, and the natural environment. She considered the amendment proposed by KiwiRail more comprehensive to ensure stormwater is treated and safely disposed of, mitigating impact on flooding and erosion risk. The Panel accepts her recommendations in that regard for the reasons given.

4.8.4 Submissions S125.035 Ministry of Education, S132.057 KiwiRail Holdings Ltd and S112.078 Waka Kotahi NZ Transport Agency are accepted in part by the following amendments to Policy SUB-P7:

Ensure subdivision is appropriately serviced and integrated with existing or planned *infrastructure* that is proposed in ~~an~~ a safe, efficient, integrated and co-ordinated manner by:

1. ~~Ensuring~~ Requiring *infrastructure* networks to have sufficient capacity to accommodate the additional development, ~~and requiring~~ with any necessary upgrades to be completed at the time of *subdivision*;

10. Requiring *subdivision* designs to provide for the treatment and safe disposal of stormwater that avoids any increase in overland flows, flooding or erosion risk; and

11. Requiring *subdivision* designs to provide for the integration of social infrastructure that supports the well-being and connectivity of future residents, including access to *community facilities*, public amenities, and open spaces.

Submitter (S) Further Submitter (FS)	Decision Requested
S50.001 Jacklyn Johnston	Propose a mandatory inclusion of rainwater capture and greywater recycling in all new builds and alterations where it is practical, for example new roofing. With the possibility of subsidies. The Council could explore potential bulk contracts for tanks at reduced costs given the significant numbers.
FS5.84 Hamish Weir *FS22.006 Clark Fortune McDonald & Assoc*	*Disallow S50.001 Jacklyn Johnston*

4.8.5 The Panel agrees with the intent of the submission from Jacklyn Johnston. It accepts that it is desirable to capture rainwater and where practical recycle grey water for on-site use. The Panel does however accept the advice of Joanne Skuse at paragraph 186 of her s42A Report where she stated:

> In relation to Jacklyn Johnston, the policy encourages initiatives to reduce water demand and water use. While I recognise the environmental benefits of rainwater capture and greywater recycling, I do not believe it is practicable to mandate their inclusion in all new builds and alterations. Implementing such a requirement may present significant challenges, particularly in terms of cost, technical feasibility, and site-specific constraints. Instead of making this a mandatory requirement, I consider the policy is sufficient to encourage the adoption of these systems where feasible, allowing flexibility for developers and homeowners to implement them.

4.8.6 In addition, before considering provisions requiring the mandatory provision of rainwater storage tanks as part of new builds and extensions to dwellings, the Panel would need to receive evidence outlining the economic benefits and costs of potential options and an assessment of any implications on site layout rules. None of that

information has been provided to the Panel and in its absence the Panel considers it inappropriate to implement any new requirements of this type.

4.8.7 The option of the Council buying and selling storage tanks at a discounted rate and offering subsidies is outside of the scope of what the Panel is able to consider through the District Plan process. As this would impact on core services provided by the Council, full Council input is required, together with public consultation. The submitter may wish to promote this to the Council in the next round of the Annual Plan.

4.8.8 Having regard to these matters, submission S50.001 Jacklyn Johnston is rejected.

4.9 Policy SUB-P10

Submitter (S) Further Submitter (FS)	Decision Requested
S85.104 Environment Southland	Expand to consider secondary stormwater flow paths during subdivision design
FS5.85 Hamish Weir *FS22.008 Clark Fortune McDonald & Assoc*	*Disallow S85.104 Environment Southland*

4.9.1 The Panel agrees that it is desirable to recognise secondary flow paths in the Plan and notes some Councils have mapped these on hazard maps. No such information is available for the Gore District. However, the Panel accepts at the time of subdivision regard should be given to the potential for overland flows during high rainfall events that could give rise to a risk to people and properties. The Panel has considered the best means of providing for that and concluded that an addition to Policy SUB-P7(10) is preferrable to expanding Policy SUB-P10. The Panel also recognises that provision is required in the existing rules and in any new rules to link back to the policy.

4.9.2 Submission S85.104 Environment Southland is accepted in part by:

(a) adopting the decision in paragraph 4.8.4 above;

(b) adding to Rules SUB-R1 and SUB-R4 Matters of Control:

5. Management of stormwater and the potential for overland flows; and

(c) adding to Rules SUB-R5, SUB-R6 and SUB-R7 Matters of Control/Discretion (8):

8. The adequacy of measures to address the risk of *natural hazards including overland flows*;

4.10 Policy SUB-P11

Submitter (S) Further Submitter (FS)	Decision Requested
S85.105 Environment Southland	Support there being a rule relating to SNA and ONL. The activity should be uplifted to non-complying and include boundary adjustment
FS5.86 Hamish Weir	*Disallow in part S85.105 Environment Southland. Rules allowing subdivision and boundary adjustments on parcels that contain ONLs & SNAs should be discretionary at most as long as new boundaries do not bisect the features.*
FS22.009 Clark Fortune McDonald & Assoc	*Disallow S85.105 Environment Southland*

4.10.1 As noted by Joanne Skuse at paragraph 197 of her s42A Report, it is not clear how the submission from Environment Southland relates to SUB-P11. The submitter did not provide any further information to the hearing to assist the Panel, accordingly, submission S85.105 Environment Southland is rejected.

4.11 Policy SUB-P13

Submitter (S)	Decision Requested
S126.118 Southland Federated Farmers of NZ S115.119 Kevin Robertson S143.130 Rural Ratepayers Group S148.131 Alistair & Bernadette Hunt S60.121 Ronald Crispin S68.239 John Baynes	Amend SUB-P13: Subdivision and development in the General Rural zone preserves and protects the productive capability of rural land and high value soils.

4.11.1 At paragraph 201 of her s42A Report, Joanne Skuse recommended accepting this submission. The Panel however has concerns with the wording recommended given the following statement in the s42A report at paragraph 199:

> 'Preserve' generally refers to maintaining something in its existing state, often to prevent any change or degradation. 'Protect' involves safeguarding something from harm, but it does not necessarily imply preventing all change. Protection might allow for some managed use, provided the value or integrity of what is being protected are maintained. In this respect, I consider the policy would benefit from the proposed amendment.

4.11.2 It is the view of the Panel that it is not possible to both preserve and protect the productive capability of rural land and high class soils. In practical terms, it is the view of the Panel that "preserve" is an aspiration and as such does not fit within the intent of the policy. Having regard to the Objective of the National Policy Statement for Highly Productive Land (NPS-HPL) that reference should be solely to "protect".

4.11.3 Submissions S126.118 Southland Federated Farmers of NZ and others are accepted in part by revising Policy SUB-P13 as follows:

Subdivision and development in the General Rural Zone ~~preserves~~ protects the productive capability of rural land and high value soils.

Submitter (S)	Decision Requested
S50.002 Jacklyn Johnston	Productive rural land and high-value soils should be preserved. Reconsider this provision as it is in conflict with SUB-S1(h)

4.11.4 In the view of the Panel, the submitter is suggesting that by adopting an 8ha minimum lot size within the General Rural Zone the intent of the policy will be nullified. The Panel disagrees having regard to the various publicly available reports and assessment undertaken during the preparation of the Proposed Plan. Notwithstanding that, the Council has a responsibility to monitor the effectiveness and efficiency of the District Plan provisions, and the Panel considers a key issue to be monitored is the extent and effects arising from subdivision in the General Rural Zone. If that monitoring indicates a loss of high value soils from production for example, then the Panel would expect further consideration to be given to this issue.

4.11.5 As a consequence of the above discussion, submission S50.002 Jacklyn Johnston is acknowledged but rejected.

4.12 Policy SUB-P15

Submitter (S) Further Submitter (FS)	Decision Requested
S100.003 Charlton Rise Ltd	Remove 'multiple vacant allotments' from policy
FS28.047 Kainga Ora	*Allow S100.003 Charlton Rise Ltd*
FS22.010 Clark Fortune McDonald & Assoc	*Allow S100.003 Charlton Rise Ltd*

4.12.1 The Panel accepts the assessment of Joanne Skuse at paragraphs 211 – 213 of her s42A Report and adopts her recommendation with only a minor word change. The

submitter did not provide any additional material or appear at the hearing to assist the Panel further with regard to this submission.

4.12.2 Submission S100.003 Charlton Rise Ltd is accepted in part by revising Policy SUB-P15 as follows:

Encourage ~~Enable~~ comprehensive redevelopment of *sites* in the Medium Density Residential Zone by requiring subdivisions to be cohesive and integrated developments, only allowing ~~avoiding the creation of multiple vacant *allotments* or~~ undersized *allotments* where they meet the land use density requirements and are specifically designed ~~unless they are created~~ around existing or proposed *residential units.*

4.13 Policy SUB-P18

Submitter (S) Further Submitter (FS)	Decision Requested
S109.094 Department of Conservation	Retain as notified
S110.039 Royal Forest and Bird Society of NZ Inc	Add/change: Protect and enhance landscapes, vegetation, ecological connections and indigenous biodiversity ~~that are of a sufficient value that they should be retained.~~
FS5.87 Hamish Weir *FS22.011 Clark Fortune McDonald & Assoc*	*Disallow S110.039 Royal Forest and Bird Society of NZ Inc*

4.13.1 The Panel acknowledges the submission in support of the policy. As the provision is being amended submission S109.094 Department of Conservation is accepted in part.

4.13.2 Joanne Skuse at paragraphs 214 and 216 of her s42A Report referred to the link between this policy and Rule SUB-R11 and recommended the policy be amended to align with the rule, as follows:

> Adopt appropriate subdivision design to protect and enhance landscapes, vegetation and indigenous *biodiversity* ~~that are of a sufficient value that they should be retained~~.

4.13.3 The Panel has considered this matter further in Decision 45 (Ecosystems and Indigenous Biodiversity) to better align subdivision objectives, policies and rules with the SRPS and the NPSIB.[1]

For alignment with Decision 45, Submission S110.039 Royal Forest and Bird Society of NZ Inc is accepted in part by amending Policy SUB-P18 to read:

Adopt appropriate subdivision design to:

1. protect outstanding natural landscapes, outstanding natural features, significant natural areas and areas of significant indigenous vegetation;~~and enhance landscapes, vegetation and indigenous *biodiversity*. that are of a sufficient value that they should be retained.~~

2. manage any significant adverse effects on other indigenous biodiversity by applying the effects management hierarchy; and

3. mange other adverse effects that may adversely affect indigenous biodiversity in a manner that gives effect to the objective and policies of the National Policy Statement for Indigenous Biodiversity.

5 Subdivision Rules

5.1 Rule SUB-R1

Submitter (S) Further Submitter (FS)	Decision Requested
S124.027 Fire and Emergency NZ	Amend as follows: Matters of Control

[1] Decision 45 Paragraphs 13.1.6-13.1.22

	2.The provision, ~~design and construction of infrastructure and services; and~~ for servicing, including water supply, firefighting water supply in accordance with SNZ PAS 4509:2008, wastewater treatment and disposal, stormwater design and disposal, electricity and telecommunications.
FS5.89 Hamish Weir	*Disallow S124.027 Fire and Emergency NZ*

5.1.1 The Panel notes the matter of discretion refers to infrastructure and services. Joanne Skuse at paragraph 229 of her s42A Report stated the matter of discretion in the Rule is sufficient for decision makers to determine and assess what servicing is necessary for the boundary adjustment and in that regard the rule as notified achieves the relief sought by the submitter.

5.1.2 FENZ in a letter tabled at the hearing retained the position set out in its original submission seeking explicit reference to a firefighting water supply being provided in compliance with SNZ PAS 4509:2008. The Panel anticipates a number of problems arising from the inclusion of the Standard. It is a complex and technical standard and contains a number of discretionary matters, meaning determining compliance could be problematic.

5.1.3 In the Panel's view, subdivision itself does not trigger the need for provision for potable water supply or provision for firefighting and that is better considered as part of the building consent phase. The provisions of relevant bylaws and codes of practice also apply at that time and the Panel notes in 2021 the Council undertook an amendment to the Subdivision and Development Bylaw to reflect the minimum standards in the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS4509:2008). It would be a duplication to now include further requirements into the District Plan. Accordingly, submission S124.027 Fire and Emergency NZ is rejected.

Submitter (S) **Further Submitter (FS)**	**Decision Requested**
S3.030 Stoney Creek Station Ltd	Delete Condition 6 ('The site does not contain a Significant Natural Area or Outstanding Natural Landscape or Feature') from SUB-R1.
FS5.90 Hamish Weir *FS17.055 Federated Farmers*	*Allow S3.030 Stoney Creek Station Ltd*
FS22.014 Clark Fortune McDonald & Assoc	*Support S3.030 Stoney Creek Station Ltd. There is no reason to restrict boundary adjustments from controlled activity status just because there is an SNA or ONL within the same large site, if the SNA or ONL is not adversely affected by the boundary adjustment.*

5.1.4 Joanne Skuse in her s42A Report (paragraph 228) and in her Supplementary Planning Evidence (paragraphs 23, 51 and 52) recommended this submission be rejected. At the hearing however, she presented changes to clause (6) for consideration by the Panel, including the addition of "highly mobile fauna". The Panel considers the submission lodged is narrow, seeking deletion of clause 6. Any addition to the rule goes beyond the scope of this submission. However, as set out in Decision 45 Ecosystems and Indigenous Biodiversity submissions provide authority to amend the provision and changes have been made to it.

5.1.5 Stoney Creek Station seeks to have clause (6) removed. The Panel disagrees. As ecological values and landscapes are identified in RMA s6 as matters to be recognised and provided for, any boundary adjustment that has the potential to impact on the ecological and landscape values needs to be assessed with the ability of declining a

consent if justified by the circumstances. A consent cannot be declined for a controlled activity. In that regard the Panel agrees with Joanne Skuse.

5.1.6 Within the General Rural Zone there are a significant number of large lots, within which there are areas of high ecological or landscape value. The Panel recognises that boundary adjustments could take place with new boundary lines being outside of those areas. There would therefore be no impact on the high ecological or landscape values. However, in the Panel's view protection of ecological values is more than where the line is drawn on the map. Regard is also required of the practicality of lots created and the implications of their future use.

5.1.7 Stoney Creek Station did not appear at the hearing of provide any material for the Panel to consider. Having regard to the s42A Report and matters considered in the hearing on the Ecosystems and Indigenous Biodiversity chapter, submission S3.030 Stoney Creek Station Ltd is rejected.

5.1.8 Evidence presented at the hearing by Ben Wilson on behalf of Clark Fortune McDonald & Associates highlighted an omission in SUB-R1 where existing lots are below the minimum required lot size. Joanne Skuse in her supplementary evidence agreed with Ben Wilson and as a minor matter and for clarity recommended the amending clause SUB-R1(2). The Panel agrees with that change for the reasons given.

5.1.9 Rule SUB-R1(2) is amended as follows:

(2) The areas of the resultant lots either:

(a) comply with the minimum lot size requirement for the zone (where applicable) ~~or~~

(b) if any existing lots are less than the minimum lot size requirement, the lot is not decreased in size; or

(c) for zones with no minimum lot size, no lot is created that is smaller than the size of the smallest existing lot;

Submitter (S) Further Submitter (FS)	Decision Requested
S132.059 KiwiRail Holdings Ltd	Amend as follows: Matters of Control: 5. Management of potential reverse sensitivity effects on existing land users, including critical infrastructure, network utilities or hazardous facilities.
FS5.91 Hamish Weir	*Disallow S132.059 KiwiRail Holdings Ltd*

5.1.13 It is the recommendation of Joanne Skuse at paragraph 230 of her s42A Report that this submission be accepted for the reason that by including reverse sensitivity as a matter of control, decision makers can assess whether the boundary adjustment will expose sensitive land uses to these impacts and, if necessary, impose conditions or mitigation measures to protect existing infrastructure or activities. The Panel agrees.

5.1.14 Submission S132.059 KiwiRail Holdings Ltd is accepted in part by adding the following to Rule SUB-R1 Matters of Control:

5. Management of potential reverse sensitivity effects on existing land uses, including critical infrastructure and network utilities.

Submitter (S) Further Submitter (FS)	Decision Requested
S100.036 Charlton Rise Ltd	Replace 'lots' with 'titles' or 'Records of Title' in 1.-9. Remove point 9 restricting boundary adjustments in Development Areas
FS5.92 Hamish Weir	*Disallow S100.036 Charlton Rise Ltd*

FS22.015 Clark Fortune McDonald & Assoc	*Disallow in part S100.036 Charlton Rise Ltd. Agree, but Planning Standards apply.*

5.1.15 As noted by Clark Fortune, the definition comes from the National Planning Standards and this definition cannot be altered. While the s42A Report was silent with regard to the status of subdivision within Development Areas, the Panel considers that the notified wording should remain given the permissive nature of development in these areas once subdivision is undertaken. The Panel also notes the submitter did not provide any additional information to the Panel to consider the matter further. Accordingly, submission S100.036 Charlton Rise Ltd is rejected. The submitter should note however, rule SUB-R4 enables subdivisions which do not create additional record of titles but do create additional lots.

Submitter (S) Further Submitter (FS)	Decision Requested
S55.003 Brent Herbert	Amend SUB-R1(7) The site does not contain a wastewater treatment facility ~~or water supply treatment facility~~ buffer area;
FS22.012 Clark Fortune McDonald & Assoc	*Allow S55.003 Brent Herbert*

5.1.16 Consequential to the determination of the Panel to remove the water treatment buffer area from the PDP, as set out in Decision 23 paragraph 3.3.6, it is appropriate to amend this provision as well.

5.1.17 Submission S55.003 Brent Herbert is accepted by amending Rule SUB-R1(7) as follows:

The *site* does not contain a *wastewater* treatment facility ~~or water supply treatment facility~~ buffer area;

5.1.18 Consequential to the above, Rule SUB-R4(7) is amended to read:

The *site* does not contain a~~n~~ *wastewater* treatment facility ~~or water supply treatment facility~~ buffer area

5.2 Rule SUB-R3

Submitter (S) Further Submitter (FS)	Decision Requested
S132.061 KiwiRail Holdings Ltd	Retain SUB-R3 as proposed.
S74.016 Hamish Weir	Cross leases plans and Land Transfer plans differ in format. Retain this rule, with a minor alteration to matter of control 3; The requirement for any ~~easements to legalise access and~~ services and any necessary consent notices.
FS22.016 Clark Fortune McDonald & Assoc	*Allow S74.016 Hamish Weir*

5.2.1 The Panel noted the advice from Joanne Skuse at paragraph 241 of her s42A Report that:

> SUB-R3 relates not only to cross lease plans but also alterations to unit title plans. Unit Title plans do utilise easements and therefore I recommend the reference in the matter of discretion for 'easements to legalise *access* and services' remains. If it is not relevant to cross lease plans it will not be considered and matters of discretion (1) and (2) adequately provide provision to assess access and services on cross-lease plans.

5.2.2 Hamish Weir did not provide any additional information to the Panel to assist it in considering this submission. The Panel therefore adopts the recommendation of Joanne Skuse and submission S74.016 Hamish Weir is rejected.

5.2.3 The submission from KiwiRail in support is acknowledged and as no change is made to the provision, the submission is accepted.

5.3 Rule SUB-R4

Submitter (S) Further Submitter (FS)	Decision Requested
S99.006, S99.007, S99.009 and S99.010 Clark Fortune McDonald & Assoc	Rules 4 - 8 are re-worded from '~~the site does not contain~~', to read 'the boundary adjustment does not have an adverse effect in relation to'
FS11.015, FS11.017, FS11.018 Heritage NZ Pouhere Taonga	*Disallow S99.006, S99.007, S99.009 and S99.010 Clark Fortune McDonald & Assoc*

5.3.1 The Panel considers the status appropriate and even if boundary lines do not pass through the features listed. It considers that regard needs to be given to the impact of the proposed boundary adjustment on or from these features. For example, it is necessary to avoid creating an allotment within which the extent of a natural hazards precludes development of the site for a permitted activity. Similarly, consideration is required of appropriate separation between new boundaries and heritage items, protected trees and wastewater treatment facilities. Having discussed the matter at the hearing with Ben Wilson and Nick Geddes, the Panel concluded that the approach in the notified rule is to be preferred. A consent is required for the subdivision in any case, and in the Panel's view the values included in the provisions subject to the submission are better protected having regard to the purpose of the RMA and is compatible with the objectives of this and other relevant chapters.

5.3.2 The Panel therefore agrees with the assessment of Joanne Skuse at paragraph 231 of her s42A Report that determining whether there is an adverse effect requires an assessment and regard to the objective and policy framework of the Plan and as such the additional changes sought are not appropriate.

5.3.3 Accordingly submissions S99.006, S99.007, S99.009 and S99.010 Clark Fortune McDonald & Assoc are accepted in part by adopting the decision set out in paragraph 5.1.9.

Submitter (S) Further Submitter (FS)	Decision Requested
S132.062 KiwiRail Holdings Ltd	Amend SUB-R4 as follows: Matters of Control: 5. Management of potential reverse sensitivity effects on existing land users, including critical infrastructure, network utilities or hazardous facilities.
FS12.003 Fuel Companies	*Allow S132.062 KiwiRail Holdings Ltd*
S112.079 Waka Kotahi NZ Transport Agency	Amend so non-compliance defaults to a restricted discretionary consent.as follows: Subdivision resulting in no additional lots created: Activity Status: Controlled Where: 10. The site does not include a proposed vehicular access to a State highway (existing or new access).
FS5.94 Hamish Weir	*Disallow S112.079 Waka Kotahi NZ Transport Agency*

5.3.5 It was the recommendation of Joanne Skuse at paragraphs 252 and 254 of her s42A Report that these submissions be accepted subject to a minor wording change. The Panel agrees.

5.3.6 Submission S132.062 KiwiRail Holdings Ltd is accepted in part by adding to Rule SUB-R4 Matters of Control:

5. Management of potential reverse sensitivity effects on existing land uses, including critical infrastructure and network utilities.

5.3.7 Submission S112.079 Waka Kotahi NZ Transport Agency is accepted in part by adding to Rule SUB-R4:

10 The subdivision does not result in a new vehicular access to a State highway

Submitter (S) Further Submitter (FS)	Decision Requested
S74.017 Hamish Weir	1. The title of the rule should be rewritten as follows; Subdivision resulting in no additional ~~lots~~ records of title created 2. The wording of SUB-R4 - 6 is proposed to be rewritten as follows; The ~~site does not contain a~~ proposed new boundaries do not bisect a Significant Natural Area or Outstanding Natural Landscape or Feature;
FS22.018 Clark Fortune McDonald & Assoc	*Allow S74.017 Hamish Weir*
S99.006 Clark Fortune McDonald & Assoc	Rule 4 is re-worded from ~~'the site does not contain~~', to read 'the boundary adjustment does not have an adverse effect in relation to'
FS5.97 Hamish Weir	*Allow S99.006 Clark Fortune McDonald & Assoc*
FS11.014 Heritage NZ Pouhere Taonga	*Disallow S99.006 Clark Fortune McDonald & Assoc*

5.3.8 Hamish Weir has highlighted a minor error in the heading for the rule, and as noted by Joanne Skuse at paragraph 256 of her s42A Report it is appropriate to amend that.

5.3.9 Submission S74.017 Hamish Weir is accepted in part by:

(a) Amending the title of Rule SUB-R4 as follows:

Subdivision resulting in no additional ~~lots~~ records of title created

5.3.10 Ben Wilson on behalf of Clark Fortune opposed the wording 'the site does not contain' in the rule stating it would result in unnecessary escalation of consent requirements for a boundary adjustment which happens to be within the same title as certain features, but is physically separate and unrelated. He referred to the Operative Plan noting the relevant rule refers to 'new boundaries are created which pass through' certain areas such as potential inundation, or within specified distances of certain features (such as transmission lines or archaeological sites.

5.3.11 In response to the evidence of Ben Wilson, Joanne Skuse at paragraph 25 of her supplementary statement of evidence stated:

> In relation to subdivision of land containing areas of ONL, ONF or SNAs, I maintain my recommendation from the Section 42a report. In my opinion, subdivision (including boundary adjustments) of land including ONLs, ONFs and SNAs, require assessment to ensure they do not result in adverse effects on the ecological values, visual integrity, or biodiversity of these areas. Whilst a matter of control could be included to assess boundary treatment, I do not consider a controlled activity status is appropriate. I consider a discretionary activity status is proportionate to the significance of the RMA Section 6 matters. I therefore make no further amendments in this regard.

5.3.12 The Panel agrees with Joanne Skuse and considers the restricted discretionary activity status appropriate having regard to matters considered in Decision 45 Ecosystems and Indigenous Biodiversity. In addition, the Panel considers the rewording suggested by Ben Wilson 'the boundary adjustment does not have an adverse effect in relation to' lacks certainty. In order to properly assess the extent of effects then restricted discretionary status is appropriate. Accordingly, submission S99.006 Clark Fortune McDonald & Assoc is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S146.055 Southland District Council	Clarify what this rule is trying to accomplish
FS5.95 Hamish Weir	*Disallow S146.055 Southland District Council*

5.3.13 The Panel agrees with the assessment of Joanne Skuse at paragraph 255 of her s42A Report where she stated:

> In relation to the submission from SDC, this rule is to enable subdivision that creates additional lots which are then amalgamated with existing lots, such that no new records of title are created. This is a common method of boundary adjustment (prior to National Planning Standards definitions) which can be more efficient and cost effective than surveying an entire site. It is not uncommon for large land holdings in Southland to be made up of multiple lots held on one record of title. The definition of boundary adjustment under the National Planning Standards, however, does not enable this type of subdivision given it refers to lots and not titles.

5.3.14 Accordingly, submission S146.055 Southland District Council is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S55.004 Brent Herbert	Sub-R4(7) The site does not contain a wastewater treatment facility ~~or water supply treatment facility~~ buffer area;
FS22.017 Clark Fortune McDonald & Assoc	*Allow S55.004 Brent Herbert*

5.3.15 The water supply treatment facility buffer area was discussed in paragraph 5.1.16 above, with a consequential change being made to Rule SUB-R4(7) as sought by the submitter. Accordingly, submission S55.004 Brent Herbert is accepted by adopting the decision in paragraphs 5.1.17 and 5.1.18 above.

5.4 Rule SUB-R5

Submitter (S) Further Submitter (FS)	Decision Requested
S121.061 Alliance Group Ltd S35.046 Chorus NZ Ltd S40.042 Silver Fern Farms S126.119 Southland Federated Farmers of NZ S154.046 Spark NZ Trading Ltd S32.046 One NZ Group Ltd S33.046 FortySouth S37.046 Connexa Ltd S115.120 Kevin Robertson S143.131 Rural Ratepayers Group S148.132 Alistair & Bernadette Hunt S60.122 Ronald Crispin S68.240 John Baynes	Retain as notified

5.4.1 These submissions in support of SUB-R5 are acknowledged. As changes have been made to the rule arising from other submissions lodged, these submissions are accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S99.011 Clark Fortune McDonald & Assoc	SUB-R5 is re-worded for 'activity status where compliance not achieved' to be a <u>discretionary</u> status.
FS5.101 Hamish Weir	*Allow S99.011 Clark Fortune McDonald & Assoc*
S74.018 Hamish Weir	Retain this rule with a minor amendment: 9; Provision for servicing, including water supply, firefighting water supply, wastewater treatment and disposal, stormwater design and disposal, electricity and telecommunications <u>(including by wireless means)</u>**.** 2. Non-conformance to the standards should be <u>Discretionary.</u>
FS22.019 Clark Fortune McDonald & Assoc	*Allow S74.018 Hamish Weir*

5.4.2 Hamish Weir seeks to have reference to wireless communications included in clause 9. The Panel agrees with Joanne Skuse at paragraph 280 of her s42A Report that SUB-P9 recognises alternative, unreticulated options for telecommunications may be available in the General Rural and Rural Lifestyle zones. Consequentially, this part of submission S74.018 is rejected.

5.4.3 The Panel notes that Rule SUB-R5 is for a restricted discretionary activity, with one condition applying to it, namely that Standards SUB-S1, SUB-S2 and SUB-S3 are met. As notified, non-compliance with Rule SUB-R5 and any of the standards triggers non-complying status. It is consistent in that regard.

5.4.4 Joanne Skuse has recommended to the Panel through a combination of her s42A Report, her supplementary evidence and presentations at the hearing that Standards SUB-S1, SUB-S2 and SUB-S3 be amended, so that in effect a sliding scale be provided with the status of a proposal being determined by the extent to which the standard is not complied with, being discretionary or non-complying. No change was recommended to Rule SUB-R5, resulting in a disjoint between the status of subdivision proposals under the rule and standards.

5.4.5 Ben Wilson, representing Clark Fortune, in his evidence at the hearing sought the approach recommended in the Standards to be adopted in Rule SUB-R5, although he was unsure at what areas the delineation in status should occur.

5.4.6 It is the view of the Panel that there is a strong possibility of confusion arising in providing sliding scale approach in the Rule and also in the Standards. The Panel considers the practical approach is to provide for the status for non-compliance with the Standards to be solely determined within the Standards themselves. This results in deleting the non-complying status referred to in Rule SUB-R5 and linking non-compliance to the Standards.

5.4.7 Submissions S99.011 Clark Fortune McDonald & Assoc S74.018 Hamish Weir are accepted in part by amending Rule SUB-R5 (now SUB-R7) activity status where compliance is not achieved as follows:

~~Non-Complying~~ Where relevant SUB-S1, SUB-S2 and/or SUB-S3 apply.

Submitter (S) Further Submitter (FS)	Decision Requested
S110.040 Royal Forest and Bird Society of NZ Inc	To align with NPS-IB 1.7 add: 15. Effect on ecological values or indigenous biodiversity
FS5.98 Hamish Weir	*Disallow S110.040 Royal Forest and Bird Society of NZ Inc*

5.4.8 Joanne Skuse at paragraph 275 of her s42A Report noted clause 11 in the rule refers to impacts on ecological value areas and in her view the addition sought is not required. The Panel however considers greater clarity is needed, together with consistency with similar clauses in the rules and with Decision 45 Ecosystems and Indigenous Biodiversity. The Panel also notes clause 13 refers to impacts on Ngai Tahu cultural values, and as a consequence reference to cultural values is not required in clause 11.

5.4.9 Submission S110.040 Royal Forest and Bird Society of NZ Inc is accepted in part by amending Rule SUB-R5(11) as follows:

~~Impacts on and *access* to cultural, natural and ecological value areas;~~ Effects on natural features and landscapes, ecosystems and indigenous *biodiversity;*

Submitter (S) Further Submitter (FS)	Decision Requested

S112.080 Waka Kotahi NZ Transport Agency	Amend SUB-R5 as follows: Matters for discretion: 5. The effects of traffic generation on the safe and efficient operation of the transport network. This includes the outcome of any consultation with Waka Kotahi NZ Transport Agency where the access connects to any State Highway.
FS5.99 Hamish Weir	*Disallow S112.080 Waka Kotahi NZ Transport Agency*

5.4.9 As noted by Joanne Skuse at paragraph 276 of her s42A Report, clause 5 in the rule refers to the effects of traffic generation on the safe and efficient operation of the *transport network*. It is the view of the Panel that the addition sought is not required and consequentially submission S112.080 Waka Kotahi NZ Transport Agency is rejected. The Panel notes acceptance of that outcome by NZTA as stated in evidence presented at the hearing.

Submitter (S) Further Submitter (FS)	Decision Requested
S124.028 Fire and Emergency NZ	Amend as follows: 9. Provision for servicing, including water supply, firefighting water supply in accordance with SNZ PAS 4509:2008, wastewater treatment and disposal, stormwater design and disposal, electricity and telecommunications.
FS5.100 Hamish Weir	*Disallow S124.028 Fire and Emergency NZ*

5.4.10 As noted by Joanne Skuse at paragraph 277 of her s42A Report, clause 9 in the rule refers to provision for servicing, firefighting. It is the view of the Panel that the addition sought is not required because it is already covered and for the reasons set out in paragraphs 5.1.2 and 5.1.3 above. Consequentially submission S124.028 Fire and Emergency NZ is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S132.063 KiwiRail Holdings Ltd	Amend SUB-R5 as follows: Matters of discretion: 9. Provision for servicing, including water supply, fire fighting water supply, wastewater treatment and disposal, stormwater design and disposal for the safe disposal of stormwater that does not result in increased flooding and erosion risk, electricity and telecommunications. 14 Reverse sensitivity on adjacent land uses, to protect the function and operation of, airports, railway lines and State Highways.
FS5.102 Hamish Weir	*Disallow S132.063 KiwiRail Holdings Ltd*

5.4.11 The Panel agrees with the assessment of Joanne Skuse at paragraph 278 of her s42A Report where she stated:

> In relation to KiwiRail, I consider the matters of discretion are sufficiently broad to encompass the specifics of the submission point request. Further the changes proposed to policies SUB-P5 and SUB-P7 adequately address the matters of concern from the submitter such that they do not need to be repeated in the matters of discretion

5.4.12 The Panel notes KiwiRail did not provide any additional material with regard to this submission at the hearing. Accordingly, submission S132.063 KiwiRail Holdings Ltd is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.106 Environment Southland	Give greater emphasis on natural hazards (more emphasis on avoid in the first instance) in SUB-R5
FS5.103 Hamish Weir	*Disallow S85.106 Environment Southland*
FS22.020 Clark Fortune McDonald & Assoc	*Disallow S85.106 Environment Southland*

5.4.13 The Panel notes the general nature of the Environment Southland submission and that no detail was provided as to the changes sought. The Panel considers the provision as worded referring to the "adequacy of measures to address the risk of natural hazards" as providing sufficient guidance to indicate the greater the risk then the more difficult it will be to put adequate measures in place. Further, it is the degree of risk that dictates the response required. To simply state avoid natural hazards does not recognise the circumstances where the level of risk is very low, such as with the low liquefaction risk through much of the district. Risk however is considered further by the Panel in Decision 44 Natural Hazards.

5.4.14 Having regard to the above matters, submission S85.106 Environment Southland is rejected.

5.5 Additional Rules Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S101.065 Transpower NZ Ltd	Amend the subdivision rules to include the following new rule: SUB-RX Subdivision for network utilities: All Zones: Activity status: permitted Where: 1. The subdivision creates an allotment for the purpose of any unstaffed network utilities, accessway or road. Activity status where compliance not achieved: N/A
S154.049 Spark NZ Trading Ltd S32.049 One NZ Group Ltd S33.049 FortySouth S37.049 Connexa Ltd S35.049 Chorus NZ Ltd	Add a new rule for subdivision for infrastructure purposes as follows: All Zones - Activity Status: Controlled. Subdivision to create any site to be used solely for the provision of infrastructure. Matters of Control 1 The location, size and design of allotments, building platforms, accessways, right of ways, vehicle crossings, open space and connections to the surrounding area; and 2 the ability to accommodate permitted and/or intended land uses; and 3 the response to the site's and surrounding areas natural and physical features, character, amenity, constraints and vegetation; and 4 measures to avoid, remedy or mitigate adverse effects: of any natural hazards or other risks; and on any sensitive environments, waterbodies, ecosystems or notable trees; and on infrastructure; and on existing or permitted adjoining or adjacent land uses;
FS21.083 Yrless Ltd	*Allow S35.049 Chorus NZ Ltd*

5.5.1 These submissions were considered at paragraphs 87 – 94 of the s42A Report. Joanne Skuse recommended a new rule in response to these submissions at paragraph 95 of her s42A Report. That recommendation was supported by Transpower. None of the other submitters provided any feedback to the Panel for it to consider. Accordingly, the Panel adopts the s42A recommendation.

5.5.2 Submissions S154.049 Spark NZ Trading Ltd and others are accepted, and submission S101.065 Transpower NZ Ltd is accepted in part by introducing a new rule, with subsequent renumbering as follows:

SUB-R6 Subdivision of land solely to create an allotment that is for the purpose of network utilities

Subdivision to create any site to be used solely for the provision of network utilities

Where:

1. Other than the site(s) created for network utilities, there are no more sites after the subdivision than existed before the subdivision.

Activity status: Controlled

Matters of control:

1. The size, design and layout of lots for the purpose of network utilities.
2. Legal and physical access to and from lots.
3. Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems, stormwater control and disposal, telecommunications and electricity.
4. Subdivision design in response to the sites and surrounding areas natural and physical features, character, amenity, constraints and vegetation.
5. Measures to avoid, remedy or mitigate adverse effects: of any natural hazards, including overland flows, or other risks; any *historic heritage* or *notable tree*; a Significant Natural Area; or Outstanding Natural Landscape or Feature; area of indigenous vegetation, waterbodies, ecosystems; existing infrastructure; and on existing or permitted adjoining or adjacent land uses.

Activity status where compliance is not achieved:

SUB-R6 (1): SUB-R7 applies and where relevant SUB-R10 – SUB-R15

Submitter (S)	Decision Requested
S101.066 Transpower NZ Ltd	Include the new rule: SUB-RX Subdivision in the National Grid Subdivision Corridor: All Zones: Activity status: restricted discretionary Where: 1. a building platform is identified on the subdivision plan that is outside of the National Grid Yard, to be secured by way of a consent notice. Matters of discretion 1. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the requirements of NZ ECP34:2001. 2. The provision for the ongoing efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines for maintenance, inspections and upgrading. 3. The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms. 4 The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid, including the ability to ensure adverse effects on, and from, the National Grid and on public safety and property are appropriately avoided, remedied or mitigated, for example, through the location of roads and reserves under the transmission lines. 5. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid. 6. The outcome of any consultation with Transpower NZ Ltd. 7. The extent to which the subdivision plan clearly identifies the National Grid and identified building platform or platforms. Notification An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be Ltd notified only to Transpower NZ Ltd, where the consent authority considers this is required, absent its written approval. Activity status where compliance not achieved: Non-complying

5.5.3 Joanne Skuse at paragraph 79 of her s42A Report recommended a new rule in response to this submission. That rule is generally acceptable to Transpower. However, Ainsley McLeod at paragraph 41 of her statement of evidence sought minor wording changes to the recommended rule. Joanne Skuse, at paragraph 63 of her supplementary planning evidence agreed with those minor changes sought. The Panel adopts the amended new rule for the reasons given in the reports and evidence.

5.5.4 Submission S101.066 Transpower NZ Ltd is accepted in part by introducing a new rule, as follows:

SUB-R13 Subdivision within the National Grid Subdivision Corridor

Activity Status: Restricted Discretionary

Where:

1. All resulting allotments, except allotments for access or a public work, demonstrate that they are capable of locating buildings outside of the National Grid Yard

Matters of discretion:

1. The nature of the consent notice or other mechanism proposed to ensure buildings -are located outside of the National Grid Yard.
2. Impacts on the operation, maintenance, upgrade and development of the National Grid, including the ability for continued reasonable access to National Grid transmission lines and structures.
3. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the requirements of NZECP34:2001.
4. The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms.
5. The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid,
6. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.
7. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid.
8. The outcome of any consultation with Transpower New Zealand Limited.

Activity status where compliance not achieved: Non-complying

Submitter (S) Further Submitter (FS)	Decision Requested
S99.005 Clark Fortune McDonald & Assoc	Insert specific provisions for section 226 certificates as permitted activities providing certain criteria are met and clarity as to when s226 certification can be used and when a subdivision consent is needed in a similar vein to Chapter 2.6, rule SUB.1 of the Southland District Plan.
FS5.114 Hamish Weir *FS14.019 NZ Transport Agency Waka Kotahi*	*Allow S99.005 Clark Fortune McDonald & Assoc*
S74.013 Hamish Weir	An additional rule is sought as follows; SUB-R4A - Certification of existing allotments under s226 of the RMA 1991 Where; 1. an existing allotment not bound by way of an amalgamation condition or covenant exists in the Cadastre 2. having no less than 3.5m wide frontage to a legal road 3. the site is not subject to any readily identifiable natural hazard Matters of Control 1. The design and provision of access; and 2. The provision, design and construction of infrastructure and services
FS22.043 Clark Fortune McDonald & Assoc	*Allow S74.013 Hamish Weir*
FS14.018 NZ Transport Agency Waka Kotahi	*Allow in part S74.013 Hamish Weir but require access onto the allotment(s) to comply with the relevant transport standards in the Proposed District Plan, and where that is not achieved, the activity becomes a controlled activity.*

5.5.5 Joanne Skuse at paragraph 107 of her s42A Report recommended a new rule in response to these submissions as well. That rule is generally acceptable to Clark Fortune. However, Ben Wilson at paragraph 21 of his statement of evidence sought minor wording changes to the recommended rule. Joanne Skuse, at paragraph 18 of her supplementary planning evidence agreed with the minor changes sought. The Panel adopts the amended new rule for the reasons given in the reports and evidence.

5.5.6 Submissions S99.005 Clark Fortune McDonald & Assoc and S74.013 Hamish Weir are accepted in part by the insertion of a new rule in the Subdivision chapter as follows:

SUB-R5 - Certification of existing allotments under s226 of the RMA 1991

Applications for certification of allotments on an existing survey plan under section 226(1)(e)(ii)

Activity Status: Controlled

Where:

1. The lots are existing allotments not bound by way of an amalgamation condition or covenant;
2. The *site* does not contain land mapped in the District Plan as being Subject to Actual or Potential Inundation, Flood Bank Mitigation Area or Mataura River Floodway;
3. The site does not contain a *historic heritage* item or site listed in the Historic Heritage Schedule;
4. The site does not contain a protected tree or group of trees listed in *Notable Trees* Schedule;
5. The site does not contain a Significant Natural Area or Outstanding Natural Landscape or Feature;
6. The allotments comply with the following:
   (a) SUB-S1 – Minimum Lot Size;
   (b) SUB-S2 – Lot Dimension;
   (c) Existing buildings on site comply with setback standards, height in relation to boundary and building coverage standards of the relevant zone chapter, as they relate to new title boundaries enabled by s226 certification; and
   (d) Access to each site complies with TRANS-S5, TRANS-S6 and TRANS-S7.
7. Lots within the General Residential Zone, Medium Density Residential Zone, Neighbourhood Centre Zone, Local Centre Zone; Mixed Use Zone Chapter; Town Centre Zone; Light Industrial Zone and General Industrial Zone have water supply and wastewater infrastructure connected to the boundary where available.

Matters of control:

1. The design and provision of access;
2. The provision, design and construction of services; and
3. The adequacy of measures to address the risk of *natural hazards* including overland flows.

Activity status where compliance is not achieved:

SUB-R5 (1): SUB-R7 applies

SUB-R5 (2): SUB-R7 and where relevant SUB-R15 applies

SUB-R5 (3): SUB-R7 and SUB-R10 applies

SUB-R5 (4): SUB-R7 and SUB-R11 applies

SUB-R5 (5): SUB-R7 and SUB-R14 applies

SUB-R5 (6): SUB-R7 applies

SUB-R5 (7): SUB-R7 applies

5.6 Other Minor Changes

5.6.1 In her s42A Report, Joanne Skuse highlighted some ambiguities and technical omissions in the rules of this chapter of the Plan, in particular, Rule SUB-R5 All Other Subdivisions. For clarity, she recommended various amendments. The Panel considers these are of a minor nature and agrees it is appropriate to make the

recommended amendments.

5.6.2 Rule SUB-R1 Activity status where compliance is not achieved is amended as follows:

~~Where SUB-R1(1) to (9) are not achieved, the activity is subject to the subdivision rules SUB-R5 to SUB-R13 below.~~

SUB-R1(1), SUB-R1(2), SUB-R1(3): SUB-R7 applies

SUB-R1(4): SUB-R7 and SUB-R10 applies

SUB-R1(5): SUB-R7 and SUB-R11 applies

SUB-R1(7): SUB-R7 applies

SUB-R1(8): SUB-R7 and where relevant SUB-R15 applies

SUB-R1(9): SUB-R8 and SUB-R9 applies dependant on DEV area

5.6.3 Rule SUB-R2 and SUB-R3 Activity status where compliance is not achieved is amended as follows:

~~Where SUB-R2(1) to (3) are not achieved, the activity is subject to the subdivision rules SUB-R5 to SUB-R13 below.~~

Discretionary

5.6.4 Rule SUB-R4 Activity status where compliance is not achieved is amended as follows:

~~Where SUB-R4(1) to (9) are not achieved, the activity is subject to the subdivision rules SUB-R5 to SUB-R13 below.~~

SUB-R4 (1), SUB-R4 (2), SUB-R4 (3): SUB-R7 applies

SUB-R4 (4): SUB-R7 and SUB-R10 applies

SUB-R4 (5): SUB-R7 and SUB-R11 applies

SUB-R4 (7): SUB-R7 applies

SUB-R4 (8): SUB-R7 and where relevant SUB-R15 applies

SUB-R4 (9): SUB-R8 and SUB-R9 applies dependant on DEV area

SUB-R4 (10): SUB-R7 applies

5.6.5 Rule SUB-R5 is amended as follows:

Any *subdivision*~~, unless provided for in Rules SUB-R1, SUB-R2, SUB-R3, SUB-R4, SUB-R10, SUB-R11, SUB-R12 or SUB-13 is:~~ SUB-R10, SUB-R11, SUB-R12, SUB-R13, SUB-R14, SUB-R15 may also be applicable in addition to this rule.

5.6.6 Rules SUB-R8 and SUB-R9 adding:

Activity status where compliance is not achieved: N/A:

6 Subdivision Standards

6.1 Standard SUB-S1

Submitter (S) Further Submitter (FS)	Decision Requested
S112.082 Waka Kotahi NZ Transport Agency	Retain as notified
S126.120 Southland Federated Farmers of NZ	Retain SUB-S1 as drafted.
S132.065 KiwiRail Holdings Ltd	Retain SUB-S1 as proposed.
S99.014 Clark Fortune McDonald & Assoc	General Residential - A change of the 400m² minimum area from a ~~not~~ area to a gross area.

	Clarification to confirm whether a 2-lot subdivision would comply where one lot is bare land above the minimum area and one lot is below the minimum area but with an existing dwelling. If the rule intends that a second dwelling needs to be built prior to subdivision for compliance, then wording should clarify.
FS28.048 Kainga Ora	*Allow S99.014 Clark Fortune McDonald & Assoc*
S74.020 Hamish Weir	Non-conformance to the standards should be Discretionary.
FS22.028 Clark Fortune McDonald & Assoc	*Allow S74.020 Hamish Weir*

6.1.1 The Panel acknowledges the submissions in support of this Standard. As changes have been made to the provision in response to other submissions lodged, these are accepted in part.

6.1.2 Joanne Skuse assessed the submissions of Clark Fortune and Hamish Weir at paragraphs 295 – 300 of her s42A Report, recommended changes to Standard SUB-S1 with regard to the General Residential Zone to provide consistency with recommendations made on submissions to the Residential chapter of the Proposed Plan. She also advised that in relation to clarification of lot sizes for allotments that contain an existing residential unit, the standard does not apply when each lot contains a residential unit. This is because effects, such as bulk and location of building, access and services have been previously assessed through either a land use or building consent.

6.1.3 In written evidence to the Hearing Committee, Ben Wilson at paragraph 17 sought discretionary status as follows:

- In the General Residential Zone where the minimum lot size exceeds 350 square metres, which is consistent with the recommendation in the s42A Report
- In the Large Lot Residential Zone where the minimum lot size exceeds 1,750 square metres.
- In the Settlement Zone where the minimum lot size exceeds 1,750 square metres.

6.1.4 Ben Wilson accepted non-complying status where the minimum lot size was not achieved for the other zones listed. The Panel agrees with that approach.

6.1.5 In her supplementary evidence, Joanne Skuse at paragraph 16, recommended a further change to the Standard with regard to the Settlement Zone to provide consistency with recommendations made on submissions to the Residential chapter of the Proposed Plan.

6.1.6 Submissions S99.014 Clark Fortune McDonald & Assoc and S74.020 Hamish Weir are accepted in part by amending Standard SUB-S1 as follows:

Minimum Lot Size

1. No lots to be created by *subdivision*, including balance lots, shall have a ~~*net*~~ gross *site area* less than the minimum specified:

Activity status where compliance is not achieved with:

SUB-S1(1)(a) but the minimum lot size exceeds 350m^2: Discretionary

Where the minimum lot size is less than 350m^2: Non-Complying

SUB-S1(1)(e) but the minimum lot size exceeds 1000m^2: Discretionary

Where the minimum lot size is less than 1000m^2: Non-Complying

Activity status where compliance not achieved with:

SUB-S1(b), SUB-S1(c), SUB-S1(d), SUB-S1(f), SUB1(g) and SUB-S(1)(h):

Non-Complying

6.2 Standard SUB-S2

Submitter (S) Further Submitter (FS)	Decision Requested
S100.006 Charlton Rise Ltd	Retain as notified.
S74.021 Hamish Weir	Non-conformance to the standards should be Discretionary.
FS22.041 Clark Fortune McDonald & Assoc	*Allow S74.021 Hamish Weir*

6.2.1 The Panel acknowledges the submission in support of this Standard. As changes have been made to the provision in response to another submission lodged, submission S100.006 Charlton Rise Ltd is accepted in part.

6.2.2 As noted by Joanne Skuse at paragraph 299 of her s42A Report, Standard SUB-S2 requires the layout of new lots in the Residential and Industrial Zones to provide a square of varying dimensions to facilitate future development. It is the view of the Panel that the critical issue is the size of the lot, rather than the dimensions of the area set aside for development within that lot. The Panel agrees with Ben Wilson in this case, that it is appropriate to consider any non-compliance as a discretionary activity. The Panel considers such a change will still achieve the objectives of the Subdivision chapter and meet the purpose of the RMA.

6.2.3 Submission S74.021 Hamish Weir is accepted by amending Standard SUB-S2 as follows:

Activity status where compliance is not achieved: ~~Non-Complying~~ Discretionary

6.3 Standard SUB-S3

Submitter (S) Further Submitter (FS)	Decision Requested
S74.022 Hamish Weir	Non-conformance to the standards should be Discretionary.
FS22.042 Clark Fortune McDonald & Assoc	*Allow S74.022 Hamish Weir*

6.3.1 The Panel agrees and accepts the advice of Joanne Skuse at paragraph 300 of her s42A Report where she stated:

> In relation to rear lots in the Town Centre zones and Local Centres Zones, this standard is to ensure active building frontages towards the street. This supports effective urban planning, commercial vitality, and the overall functionality of a commercial area. The intent of these zones is to create a vibrant, accessible, and walkable area, with a strong focus on retail, commercial, and public uses. Rear lots, which are typically positioned behind other properties, lack direct frontage on busy streets, do not offer the same level of accessibility and exposure. By restricting rear lots, more businesses can be located along primary streets, maximizing their visibility and potential foot traffic.

6.3.2 Accordingly, submission S74.022 Hamish Weir is rejected.

7 Additional Matters

7.1 Whole of Plan Submissions

Submitter (S)	Decision Requested
S140.014 Robina Johnston	Financial contributions should offset future costs in the specific location of the activity, further work needed on what is appropriate and consideration should be given of

	commercial vs non-commercial activities. Payment should be in part at key steps.
S126.179 Southland Federated Farmers of NZ S115.180 Kevin Robertson S143.191 Rural Ratepayers Group S148.192 Alistair & Bernadette Hunt S60.182 Ronald Crispin S68.300 John Baynes	We note that the Plan does not include Financial Contributions and while we appreciate it may be 'best practice' to leave these out of District Plans, we recommend the Council enables Financial Contributions through another means such as a financial contributions policy.
FS22.052, FS22.076, FS22.077, FS22.078, FS22.079, FS22.080 Clark Fortune McDonald & Assoc	*Disallow in part S126.179 Southland Federated Farmers of NZ, S60.182 Ronald Crispin, S68.300 John Baynes, S126.179 Southland Federated Farmers of NZ, S143.191 Rural Ratepayers Group, S148.192 Alistair & Bernadette Hunt. Financial contributions may potentially be appropriate if maintained at a low enough. The submitter may have overlooked that practically all infrastructure for new developments is paid for and constructed by the developer before being vested in Council.*
FS28.002 Kainga Ora	Disallow S143.191 Rural Ratepayers Group

7.1.1 The Panel agrees with Robina Johnston that the Council should have in place mechanisms to cover potential public costs arising from future development and growth in the Gore District. Current legislation enables that to be done under the RMA through District Plans or under the Local Government Act 2002. During the preparation of the Proposed Plan, the Council opted not to include financial contributions in the Proposed Plan but rather rely on development contributions under the Local Government Act, and where appropriate, development agreements.

7.1.2 For financial contributions provisions to be included in the Plan, considerable work would be required assessing an appropriate framework and its economic implications. Notwithstanding submissions requested provisions be included in the Plan, the Panel is of the view that natural justice issues would necessitate the preparation of a Variation to the Plan with notification to enable all interested and affected persons to submit. The Panel does not have the authority to initiate the Variation process. That can only be done by the Council. Similarly, only the Council can instigate the process of preparing and consulting on a Development Contributions Policy. Therefore, submissions S140.014 Robina Johnston and S126.179 Southland Federated Farmers of NZ and others are acknowledged and rejected.

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"

7.1.1 Courtney Bennett and Amy Beran in their joint response to Minute 15 did not identify specific matters in the Subdivision chapter that they considered could be reviewed having regard to the submissions of Hokonui Rūnanga. Courtney Bennett however in her evidence to the final hearing did identify provisions that in her view may require reassessing. One of those (SUB-O4) was subject to a submission by Hokonui Rūnanga and is dealt in the body of this decision, while SUB-O5 has been revised to clarify the link to RMA s229, removing reference to various stated values, including cultural values. Policy SUB-P17 and Policy SUB-P17 and Rule SUB-R9 were not

subject to any submissions and there is no scope to make an addition to them. Courtney Bennett also referred to Rule SUB-R5(13), SUB-R6(13) and SUB-R7(13) that included reference to MW-2.3 and the Panel agreed these references required updating as a minor matter.

7.2 Notes

7.2.1 The Panel has considered the Notes to this chapter as part of decision to remove unnecessary duplication within the Plan and determined that:

(a) Note 1 can be deleted because reliance can be placed on the introductory sections of the Plan.

(b) Note 2 can be deleted in favour of incorporating additional text at the end of the Overview to the chapter.

(c) Note 3 can be deleted because the Contaminated Land chapter of the Plan addresses the management of HAIL sites.

7.2.2 These changes have no statutory force and therefore are made as a minor amendment under Clause 16(2) of the First Schedule:

7.3 Section 32AA

7.3.1 The s42A Reports prepared for Subdivision, Mana Whenua, Sites and Areas of Significance, Ecosystems and Indigenous Biodiversity and Natural Hazards hearings included assessment of Section 32AA matters. In considering the submissions included on this decision, the Panel has had regard to the relevant Section 32AA provisions and where appropriate provided comment on those matters. Given the nature of other changes made to the Subdivision chapter, which in the view of the Panel are minor in nature, no additional Section 32AA assessment is required.