

BEFORE THE

Gore District Council

IN THE MATTER OF

Resource Management
Act 1991

AND

IN THE MATTER OF

Submissions and Further
Submissions on the
Proposed Gore District
Plan

Hearing Stream 11

Natural Hazards and Earthworks (further information)

**STATEMENT OF EVIDENCE OF RACHEL SHALINI THOMAS AND
BERNADETTE ELLEN HUNT ON BEHALF OF THE SOUTHLAND PROVINCE OF
FEDERATED FARMERS OF
NEW ZEALAND**

Dated 21 February 2025

Introduction

Qualifications and Experience

1. My name is Rachel Shalini Thomas. I hold a Bachelor of Arts (hons) in Political Science from Otago University and a Masters in Public Policy from Victoria University. My views are closely aligned with those of Federated Farmers, due to my personal farming background. Further elaboration on my qualifications and experience is provided in the evidence submitted for Hearing Stream 1.
2. Bernadette Ellen Hunt is a member of the Southland Province Executive for Federated Farmers and was first elected to the Southland Provincial Executive in 2015. Bernadette was previously the Senior Vice President of the Southland Province and has participated in a variety of Resource Management Act (RMA) and local government planning processes including various plan reviews. Further elaboration on Bernadette's qualifications and experience is provided in the evidence submitted for Hearing Stream 1.
3. Federated Farmers is a voluntary membership-based organisation that represents farmers and other rural businesses. Federated Farmers has a long and proud history of representing the needs and interests of New Zealand's farmers and as such has a keen interest in the Gore District Plan.
4. This evidence relates to the Natural Features and Landscapes Chapter. We have provided separate planning evidence for the proposed new Natural Character chapter.

Natural Hazards (NH)

NH-Overview

5. Southland Federated Farmers (SFF) partially supported the Overview but recommended an amendment to enable non-liveable farm ancillary buildings as a permitted activity within the natural hazards area. We made a recommendation within our submission to include a new rule to this effect.

6. It was recommended by the s42A reporting officer that our amendment to the Overview be rejected on the basis that it would be out of scope to include that level of detail. Therefore, we accept the recommendation to retain the Overview as notified.

NH-P1

7. SFF supported NH-P1, which establishes the intent to apply a 'risk based approach' to natural hazards, and sought its retention. The s42A reporting officer (Mr Brett Osborne) accepts our submission on NH-P1 and recommends NH-P1 is retained as notified. We confirm acceptance of this recommendation.

NH-P3

8. SFF suggested an inconsequential amendment to NH-P3 to apply italics to 'mahinga kai' as it is defined in the Proposed District Plan (PDP). This minor amendment is accepted.
9. Environment Southland (S85.098) oppose NH-P2 and state that significant natural hazard risk exists in the Maitai River Floodway and all development, except for critical infrastructure, should be avoided within this area without providing an avenue to consider if risks can be mitigated. This request attempts to align the PDP with the Southland Regional Policy Statement (**RPS**) policy direction for natural hazards.
10. Mr Osborne explains that the RPS is based around the notion of protection in determining significant risk which distinguishes on whether an area is protected or unprotected. Protected areas are seen as at less risk than unprotected (which are then deemed to be of significant risk). Ms Osborn describes this approach as 'very generalised and conservative [as]... it assumed every property within the entire overlay area will experience the same level of risk, which is rarely true'¹. We agree with this analysis and would caution against the approach proposed by Environment Southland (ES), which would unnecessarily capture properties where risks can be mitigated. It is important that NH-P3 still allows a pathway for subdivision, use and development within the Actual and Potential Inundation Area where risks of natural hazards can be mitigated.

¹ At paragraph 159.

11. The recommendation from Mr Osborne is for amendments to policy NH-P3, to refer to the Actual and Potential Inundation area and distinguish the level of risk to activities. We accept these recommendations.

NH-P7

12. SFF (S126.068) supported NH-P7 as notified and requested its retention. NH-P7 details the encouragement of non-regulatory methods, such as riparian planting to manage the risks of natural hazards. Royal Forest & Bird Society of NZ (**RF&B**) (S110.025) requested an amendment to refer to 'Nature Based Solutions'. SFF further submitted in opposition of this request. Mr Osborne rejects the recommendation from RF&B as it would be less clear for plan users. We are in full support of Mr Osborne's recommendation to reject this request and recommend no changes to NH-P7.

New rule – NH-R2

13. SFF (S148.982) sought the addition of a new rule to permit unoccupied farm buildings in natural hazard areas, given that unoccupied farm buildings pose less of a risk than occupied farm buildings in natural hazard areas.
14. Mr Osborne agrees that non-habitable buildings represent a reduced threat to life but identifies potential adverse effects if buildings are located near flood protection works². Mr Osborne sought advice from Tonkin & Taylor on this matter, who recommend some restrictions if a new permitted activity rule is to be included such as restriction on floor area, and a minimum set back from residential buildings, flood protection assets and/or hydraulic control structures.
15. The proposed new rule would become NH-R2, replacing the notified rule 'Buildings Used for Sensitive Activities'.

NH-R2

~~*Buildings used for sensitive activities*~~ *Construction of an accessory building used for Primary Production within areas subject to actual or potential inundation*

~~*All Zones*~~ *General Rural Zone*

² At paragraph 294.

Activity status: Permitted

Where:

1. The building is for a non-habitable use; and
2. Is no greater than 500m² in floor area; and
3. Maintains a minimum 20m setback from any residential building; and
4. Maintains a minimum setback of 10m from any flood protection asset or hydraulic control structure.

~~1. Any new building or building addition must have a minimum floor level above the 0.5% AEP design flood level, unless otherwise directed by the Southland Regional Council planning department. Except that:~~

~~(a) This rule does not apply to areas in the mapped Stopbank Protection Area. Note: Regional Council recommendations take precedence over NH-R2.~~

Activity status where compliance is not achieved:

Restricted Discretionary

Matters of discretion:

1. The risk to people and property is not increased from flooding, including from the displacement of flood waters; and
2. The design incorporates suitable methods to mitigate the hazard risk to an acceptable level; and
3. Ability to avoid adversely affecting existing flood protection assets and structures.

~~1. Suitable methods to mitigate the hazard risk.~~

~~2. The functional need and/or operational need to be located the building or structure in this location.~~

16. We accept of the floor area of 500m² as proposed by Mr Osborne as, in our view, this provides adequate area for the construction of an accessory building.

17. The 20m setback from a residential dwelling would not allow for farmyard situations where often a dwelling may be located within an existing farm yard and in close proximity to accessory buildings used for primary production. Tonkin & Taylor's recommendation to locate buildings at least 20m away from existing dwellings is on

the basis that *constructing a building near a dwelling has the potential to alter overland flow paths, resulting in increased flooding at the dwelling*³. We request a reduced distance of 10m as, in our view, 20m is potentially excessive in the context of a farm yard.

18. We thank Mr Osborne for his work on addressing our request to include a permitted activity rule and confirm partial support for his drafted rule subject to our recommendation above.

Earthworks (EW) (further information)

19. The Hearing Panel released Minute 27 on 15 November 2024, following new information from submissions presented during Hearing Stream 7: Activities on the Surface of Water, Earthworks, and Infrastructure and Energy. Minute 27 states that the following matters require further attention: the application of the National Planning Standards (**NPS**), the treatment of exemptions and assessment of provisions against higher order instruments⁴.
20. The Panel directed the s42A authors to prepare a response to Minute 27 by 14 January 2025, with expert evidence due on 28 January 2025. SFF did not provide expert evidence on this matter due to evidence also being due at the same period for the Sites and Areas of Significance to Maori (**SASM**), Natural Features & Landscapes (**NF&L**) and Natural Character (**NC**) chapters. However, we note that the Panel will now accept evidence on this (as per the information on the GDC website and on confirmation from Council's Planner Ms Bridget Sim).
21. The purpose of our comments here is to reply briefly to the:
 - (a) Right of Reply planning evidence of Ms Tina Carson-McColl and Ms Mishka Banhidi issued in response to Minute 27 (dated 14 January 2025,); and the

³ At paragraph 297.

⁴ At paragraph 2.

(b) Supplementary Evidence of Ms Calise Perkins in response to the Right of Reply Planning Evidence of Ms Tina Carson-McColl and Ms Mishka Banhidi (dated 3 February 2025).

22. Three matters are addressed by Ms Carson-McColl and Ms Banhidi, namely, the alignment with the NPS, exemptions within the EW chapter and resource management issues/policy direction.

National Planning Standards – District-wide Matters

23. In terms of the alignment with the NPS, we agree fully with the recommendations of Ms Perkins for Stoney Creek Station and refer to her supplementary statement.

Managing Earthworks – Rules and Exemptions

24. SFF supports the attempts by Ms Carson-McColl and Ms Banhidi to make a more user friendly rule framework.
25. Section 9(3) of the RMA specifies that no person may use land in a manner that contravenes a district rule unless the use is expressly allowed by a resource consent, or is subject to existing use rights. Effectively this means that land use activities are permitted unless restricted by a rule in a plan. EW-R14 is a catch-all rule which details earthworks and land disturbance not otherwise provided for. The notified permitted activity conditions for the General Rural Zone require the total volume of earthworks to not exceed 1,000m³ in any 12 month period and that all earthworks standards are complied with.
26. An option proposed by Ms Carson-McColl and Ms Banhidi is to provide earthworks exemptions directly within the rule, applicable to all zones. These are recommended as permitted for all zones:

Earthworks and land disturbance are either:

- a) permitted by a rule in a regional plan or Resource Consent issued by Environment Southland;
- b) for natural hazard mitigation undertaken by or on behalf of a statutory authority;
- c) cultivation of land, planting vegetation, trees and crops;
- d) Restoration of indigenous vegetation;

- e) Gardening, planting or any vegetation and/or the construction or maintenance of garden amenities
- f) Drilling bores;
- g) Internments in a burial ground, cemetery or urupā, within the burial plot of that internment
- h) Filling of building foundation with granular fill under concrete slab building foundations, sub-grade for roads and other sealed areas, or filling with drainage metal behind a retaining wall; or
- i) Digging of hāngī pits, or other small-scale cultural cooking methods;

27. Our concern with providing these exemptions directly within the rule is that it reads as though both earthworks and land disturbance activities may then contribute towards the total volume which may not be exceeded, of 1,000 cubic metres per site in any 12 month period. If this is not the intention, then this could be clarified within the rule.
28. SFF did not submit on EW-R14. However, EW-R14 was identified in Appendix 1 of our submission as a plan provision requiring assessment against Ngai Tahu Cultural Values. When permitted activity status is not achieved under EW-R14, Ngai Tahu Cultural Values is a matter of discretion. SFF advise the Panel to consider whether any earthworks and land disturbance activities may be unnecessarily captured or restricted by EW-R14, thus triggering the need for resource consent as a restricted discretionary activity.
29. The nature of fencing will naturally limit the volume of earthworks and amount of land disturbance as it is not in farmers' interests to undertake a greater amount than is required. We wish to emphasise that earthworks for fencing in the rural zone be exempt from any standards and earthworks for farm tracks have no areal limit.
30. In summary, we appreciate the efforts of the s42A authors to ensure that farming operations are not unnecessarily restricted and fully support the reply to supplementary evidence by Ms Perkins.

Conclusion

31. Federated Farmers thanks the Hearing Panel for the opportunity to present this evidence statement.



Bernadette Hunt
Executive Member
Southland Province Federated
Farmers of NZ



Rachel Thomas
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Federated Farmers of NZ