

Gore Proposed District Plan

Hearing Stream 11

Part 2: Natural Hazards

Section 42A of the Resource Management Act 1991

Section 42A Report – Natural Hazards

Table of Contents

Interpretation	4
Abbreviations.....	4
Submitters and Further Submitters Names Abbreviations	5
List of Submitters and Further Submitters	6
1. Executive Summary.....	7
2. Introduction	9
2.1 Author and qualifications	9
2.2 Code of Conduct	10
3. Scope of report and topic overview	10
4. Statutory considerations and planning framework.....	11
4.1 Resource Management Act 1991	11
4.2 National Planning Instruments and other Relevant Plans and Policies	11
4.3 Section 32AA evaluation	13
5. Background	14
5.1 Technical Reports	14
6. Consideration of submissions	16
6.1 Structure of the report	16
6.2 Overview of submissions.....	17
6.3 Format for consideration of submissions.....	18
6.4 The ‘Risk Based Approach’ and Hazard Maps	20
6.5 General Submissions	25
6.6 Directions for Avoiding or Managing Natural Hazard Risk.....	32
6.7 Chapter Overview Submissions	63

6.8	Additional Provisions.....	67
6.9	Infrastructure Related Provisions.....	77
6.10	Specific Provisions	89
7.	Consequential and Minor Amendments.....	93
8.	Conclusions and Closing Recommendation.....	96
8.1	Conclusions.....	96
8.2	Closing Recommendation.....	97

Appendices

Appendix A – Track change amendments to chapter

Appendix B – Recommended response to submissions and further submissions

Appendix C – Expert Evidence

Appendix D – Recommended Zone Amendments

Interpretation

Abbreviations

Resource Management Act 1991	RMA or 'the Act'
Gore District Council	GDC or 'the Council'
Operative District Plan	ODP
Proposed District Plan	PDP
National Planning Standards 2019	PS
Southland Regional Policy Statement 2017	RPS
National Policy Statements	NPS
National Policy Statement on Highly Productive Land	NPS-HPL
National Policy Statement for Freshwater Management	NPS-FM
National Policy Statement for Urban Development	NPS-UD
National Environmental Standards	NES
National Environmental Standard for Freshwater 2020	NES-F
National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011	NES-CS
Permitted Activity	PA
Controlled Activity	CA
Restricted Discretionary Activity	RDA
Discretionary Activity	DA
Non-complying Activity	NCA

Submitters and Further Submitters Names Abbreviations

Alliance Group Limited	Alliance
Chorus New Zealand Limited	Chorus
Contact Energy Limited	Contact Energy
Connexa Limited	Connexa
Department of Conservation	DOC
Environment Southland	ES
Fire and Emergency New Zealand	FENZ
Groundswell New Zealand	Groundswell
Heritage New Zealand Pouhere Taonga	Heritage NZ
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
Kāinga Ora – Homes and Communities	Kāinga Ora
KiwiRail Holdings Limited	KiwiRail
Mercury New Zealand Limited	Mercury
Ministry of Education	MOE
New Zealand Agricultural Aviation Association	NZAAA
New Zealand Defence Force	NZDF
New Zealand Heavy Haulage Association	NZ Heavy Haulage
New Zealand Helicopter Association	NZHA
New Zealand Transport Agency Waka Kotahi	NZTA
One New Zealand Group Limited	One NZ
Royal Forest and Bird Protection Society of New Zealand inc	Forest & Bird
Southland District Council	SDC
Southland Federated Farmers of New Zealand	Federated Farmers
Spark New Zealand Trading Limited	Spark
Stoney Creek Station Limited	Stoney Creek
Transpower New Zealand Limited	Transpower
Woolworths New Zealand Limited	Woolworths
Yrless Limited	Yrless

List of Submitters and Further Submitters

Submitter No.	Submitter Name
S16	Fuel Companies
S32	One New Zealand Group Limited
S33	FortySouth
S35	Chorus New Zealand Limited
S37	Connexa Limited
S40	Silver Fern Farms
S60	Ronald Crispin
S68	John Baynes
S85	Environment Southland
S99	Clark Fortune McDonald & Associates
S100	Charlton Rise Limited
S101	Transpower New Zealand Limited
S109	Department of Conservation
S110	Royal Forest and Bird Society of NZ Inc
S112	Waka Kotahi NZ Transport Agency
S115	Kevin Robertson
S121	Alliance Group Limited
S122	Fulton Hogan
S124	Fire and Emergency NZ
S125	Ministry of Education
S126	Southland Federated Farmers of New Zealand
S132	KiwiRail Holdings Ltd
S139	Hokonui Rūnanga Inc
S140	Robina Johnston
S143	Rural Ratepayers Group
S144	Contact Energy
S146	Southland District Council
S148	Alistair & Bernadette Hunt
S152	Nigel Cowburn
FS5	Hamish Weir
FS17	Federated Farmers
FS21	Yrless Limited
FS22	Clark Fortune McDonald & Associates
FS24	Contact Energy Ltd
FS27	Alliance Group Limited
FS28	Kainga Ora
FS29	Silver Fern Farms Limited

1. Executive Summary

1. The Proposed District Plan (“PDP”) for Gore District was publicly notified on 31 August 2023. The PDP includes the Natural Hazards (NH) chapter.
2. The natural hazard chapter identifies areas of natural hazard risk and controls subdivision, use and development at a district wide scale to manage the adverse effects on people and property. The PDP chapter focuses on flooding as the main hazard risk within the Gore district, which can result in damage to property, buildings, infrastructure and lead to loss of life.
3. Overlays identify the hazard risk areas, which depending on the location within the floodplain, can be significant where not protected by effective flood alleviation works. A risk-based approach considers the tolerance of a proposal by determining the sensitivity of the activity to the degree of natural hazard risk. By distinguishing sensitive activities, the provisions can better provide for subdivision, use and development relative to the hazard area.
4. A total of 123 submissions and 40 further submissions were received for this chapter. Submissions were generally in support of the risk-based approach although amendments were sought to provisions throughout the chapter. Opposition to the permissive approach within the chapter framework was received, with a request for amendments to take a more precautionary approach to hazard risk within the policies and rules.
5. A summary of the issues identified through submissions are as follows:
 - Amend objective NH-O3 to avoid subdivision and development within significant natural hazard risk areas.
 - Add a new policy to establish management criteria for new subdivision, use and development where there is existing flood protection.
 - Amend the policies to provide for hazard sensitive development and identify specific levels of risk.
 - Amend policies NH-P2 and NH-P3 to avoid subdivision and development in unprotected areas at significant risk and manage existing development.
 - Avoid all development within the Mataura River Floodway except for critical infrastructure.
 - Amend rules to exclude sensitive activities from being established on flood prone land as a permitted activity.
 - Amend the rules so development behind stop banks is not a permitted activity.
 - Prevent any new zones or ability to intensify within existing areas that are subject to natural hazards.
 - Amend policy SUB-P4 to avoid subdivision in medium, high and significant hazard areas.
 - Add additional policies to manage wildfire risk.

- Amend NH-O4 to provide for infrastructure in all hazard areas.
 - Provide exemptions for KiwiRail and telecommunication providers from the natural hazard provisions.
 - Distinguish critical infrastructure from other development due to operational needs or functional needs.
 - Amend objectives and policies to ensure activities do not result in adverse effects on critical infrastructure.
 - Exclude infrastructure from the rules controlling development in hazard areas and provide for them separately within the infrastructure chapter.
 - Add a new permitted rule for unoccupied farm buildings in hazard areas.
 - Take a pre-cautionary approach to liquefaction risk.
 - Amend provisions wherever possible to recognise potential effects on mana whenua interests.
6. The report has been prepared in accordance with Section 42A of the RMA and outlines recommendations in response to the issues that have been identified through submissions. The report is intended to assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP, and to provide submitters with an opportunity to understand how their submissions have been evaluated and the recommendations made by officers, prior to the hearing.
7. As a result of submissions, a range of recommended changes have been made which are broadly summarised as follows:
- Amendments to objective NH-O3 to align with the RPS policy direction.
 - Amendments to objective NH-O4 to clarify the intended outcomes through use of defined terminology.
 - Amendments to policy NH-P2 to refer to the Stop Bank Protection area and clarify the policy direction.
 - Amendments to policy NH-P3 to refer to the Actual and Potential Inundation area and distinguish the level of risk to activities.
 - Adding a new policy directing avoidance of subdivision, use and development within the Maitai River Floodway area.
 - Amendments to policy NH-P6 to improve alignment with the higher order direction and matters of concern to mana whenua.
 - Amendments to policy SUB-P4 to align with the RPS policy direction.

- Adding a new rule to permit construction of non-habitable accessory farm buildings within the Actual and Potential Inundation area.
 - Amendments to rule NH-R2 to permit extensions to buildings within the Actual and Potential Inundation area and the Stop Bank Protection area.
 - Add a new rule for construction of new buildings for sensitive activities within the Stop Bank Protection area.
 - Add a new rule for construction of new buildings within the Actual and Potential Inundation area that distinguishes sensitive activities.
 - Amendments to rules NH-R4 and NH-R5 to exclude reference to critical infrastructure.
 - Remove rule NH-R6 and transfer the provisions to rule INFR-R9.
 - Amendments to rule INFR-R9 to include reference to Actual and Potential Inundation area and the Stop Bank Protection area.
 - Amend HASZ-P1 regarding Significant Hazardous Facilities within flood prone areas.
 - Add a note exempting the natural hazard provisions from applying to regulated activities under the NESTF to align with higher order directions.
8. The proposed changes to the NH chapter are provided in **Appendix A**. As additional rules have been added to the chapter, consequential re-numbering of rules through the chapter is required.

2. Introduction

2.1 Author and qualifications

9. My name is Brett Osborne. I am an independent planning consultant engaged by The Property Group as a Principal Planner. I hold a Bachelor of Social Science (Resources and Environmental Planning) with First Class Honors and a Post Graduate Diploma in Resources and Environmental Planning from the University of Waikato. I have been a full member of the New Zealand Planning Institute (NZPI) since 2012 and I have over 24 years' experience in planning and resource management, including policy development and associated report and evidence preparation.
10. I have been engaged as a contractor by Gore District Council to assist in the District Plan review and prepare the draft and proposed District Plans. I should clarify that I was not the author of the section 32 evaluation prepared for the Natural Hazards chapter. Notwithstanding this, I have read that report and reviewed the notified chapter and provisions.
11. My experience includes preparing Council initiated Plan Changes and Full District Plan reviews for Wellington City Council, Upper Hutt City Council, Hutt City Council, Porirua City Council and Waimakariri District Council as well as Plan Changes for private clients.

2.2 Code of Conduct

12. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel. The opinions expressed in this evidence are based on my qualifications and experience and are within my area of expertise. Where I have relied on the evidence or opinions of another my evidence will acknowledge that position.
13. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearing commissioners ("Hearings Panel").

3. Scope of report and topic overview

14. This report considers the submissions and further submissions that were received by the Council in relation to the Natural Hazards chapter of the PDP. In addition, the provisions in the following chapters relating to the management of natural hazards and mapping are also addressed:
 - a. Part 1: Interpretation – Definitions
 - b. Part 2: District Wide Matters – Subdivision Chapter
 - c. Part 2: District Wide Matters - Infrastructure
 - d. Part 2: General District Wide Matters – Earthworks Chapter
 - e. Part 3: Area Specific Matters – Development Areas
 - f. Planning maps
15. The assessment of submissions will generally follow this format:
 - a. Submission information
 - b. Analysis of submissions
 - c. Recommendation and any amendments
 - d. Where an amendment is recommended a section 32AA assessment is provided.
16. Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions are shown by way of strikeout and underlining. **Appendix A** of this report contains a copy of the Natural Hazard chapter with all recommended amendments are shown by way of strikeout and underlining.
17. Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Recommendations to add new provisions will require re numbering of policies

and rules to maintain consistency and avoid confusion. The renumbering is included within **Appendix A**.

18. Clause 10(2)b of the RMA allows decisions on the PDP to include matters relating to consequential alterations to the PDP which are necessary, relevant or arising from submissions. The following are recommended consequential amendments to the PDP based on previous Section 42A report recommendations.

4. Statutory considerations and planning framework

4.1 Resource Management Act 1991

19. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:
 - a. Section 74 – Matters to be considered by territorial authorities; and
 - b. Section 75 – Content of District Plans.
20. As set out in the Section 32 Evaluation Report for Natural Hazards there are a number of higher order planning documents and other relevant plans which have provided direction and guidance for the preparation of the PDP. These documents and a comprehensive assessment of all relevant consultation and statutory considerations prior to public notification of the PDP are outlined in that Section 32 Report. The Section 42A Introduction, General Provisions and Strategic Direction Report (Hearing Stream 1) also provides an overview of the relevant Statutory considerations, higher order planning documents and other relevant plans and policies.
21. It is not considered necessary to repeat the detail of the relevant RMA sections and higher order documents in this report as these are covered within the relevant Section 32 Evaluation Report. However, where a higher order document is considered particularly relevant to the assessment of submissions or where there have been amendments to higher documents relevant to this topic these are discussed below.

4.2 National Planning Instruments and other Relevant Plans and Policies

Southland Regional Policy Statement (RPS)

22. The Southland Regional Policy Statement 2017 (RPS) is a 'higher order document' and sets out the framework and priorities for resource management in the region. The interpretation and application of the RPS directions form an important part in the consideration of the submissions made to the natural hazard chapter.
23. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). Section 75(3) of the RMA requires the PDP to be consistent and give effect to the RPS.
24. Chapter 8 of the RPS addresses Natural Hazards and contains one objective and seven policies. The objective seeks that risks from natural hazards are identified and the effects on people,

communities, their businesses, property, and infrastructure are understood and avoided, remedied, or mitigated. The policies seek a precautionary approach towards managing the effects of climate change and sea level rise, and any associated changes in the scale and frequency of natural hazards, to ensure potential adverse effects are avoided or mitigated.

25. In managing natural hazards, policy NH.4 sets out the following implementation priorities:
 - a. avoid exposure to areas at significant risk from natural hazards where practicable by adopting a precautionary approach;
 - b. mitigate the effects of natural hazards by managing land use in areas known to be susceptible to the effects of natural hazards;
 - c. undertake physical works needed to reduce the potential for the natural hazard to affect people and infrastructure.
26. Policy NH.5 also directs that new subdivision, development, and placement of critical infrastructure in areas at significant risk from natural hazards are avoided, unless:
 - a. there is no reasonable alternative, in which case critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events; or
 - b. avoidance is impossible or impractical and adverse effects are mitigated to an acceptable level; or
 - c. subdivision is solely for the purpose of boundary adjustments.
27. Policy NH.6 requires adverse effects of natural hazards are mitigated on new subdivision and development in areas other than those at significant risk. The explanation to the policy recognises that some forms of development are less susceptible to risk than others and as such flood risks can be mitigated or tolerable.

Proposed National Policy Statement for Natural Hazard Decision-making (NPS-NHD) (*no legal effect*)

28. Currently there is no National Policy Statement for natural hazards, although the Ministry for the Environment did seek feedback on a proposed National Policy Statement for Natural Hazard Decision-making in 2023. However, at present the document is not government policy and has no statutory weight.
29. Notwithstanding this, submissions have made reference to this document. The draft NPS-NHD proposes identifying three different levels of natural hazard risk (Low, Moderate or High) and includes a definition of “New Hazard Sensitive Development”. In essence, the proposed NPS-NHD policies direct avoidance within high risk areas, mitigation within moderate risk areas and enable development in low risk areas. The implementation of these policies ultimately requires updated robust flood modelling and the generation of hazard maps to identify the three hazard risk areas.

30. Since the consultation release, the government has advised that it intends to progress national direction for natural hazards through a single instrument to be in place by mid-2025¹. This will align with the wider reform of the RMA which includes changes to other national direction instruments².
31. When compared to the RPS policy direction, the proposed NPS-NHD is more closely aligned to current best practice represented by the risk based approach to managing natural hazard risk. ES have advised the RPS is currently being reviewed in order to update the policy direction. This would present an opportunity to consider the risk based approach as well as the recommendations from the GNS review³ as identified by ES within their submission (S85.084).

4.3 Section 32AA evaluation

32. Any recommended amendments to provisions since the initial section 32 evaluation was undertaken are evaluated in accordance with section 32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) further evaluation required under this Act-

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
- (b) must be undertaken in accordance with section 32(1) to (4); and*
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
- (d) must—*
 - (i) published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or*
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*

(2) To avoid doubt an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

33. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to the topics of this report is contained within the assessment of the relief sought in submissions in section 3, as required by s32AA(1)(d)(ii).

¹ <https://environment.govt.nz/news/national-direction-natural-hazards/> (MfE, August 2024).

² <https://www.beehive.govt.nz/release/rma-reform-phase-two-priorities-and-plan>

³ Kelly SD, Saunders WSA. 2020. Southland Regional Natural Hazard Provision Review. Lower Hutt (NZ): GNS Science. 60p. Consultancy Report 2020/21.

34. The Section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor, and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

5. Background

35. The Section 42a Report: Hearing Stream 1 – Introduction, General Provisions and Strategic Direction, prepared for Hearing Stream 1, includes details of the PDP notification, submission statistics and a general overview of the background to the PDP. In addition, the report provides an overview of National Planning Instruments and other Policies and Plans relevant to the PDP as a whole.
36. The Section 32 Evaluation Report⁴ for the Natural Hazards chapter is relevant to this Section 42a Report. The Section 32 Evaluation Report assesses and considers the relevant higher order planning documents and any strategic plans which provide direction and guidance for the preparation and content of these chapters. Where relevant these documents are considered in more detail in the assessment of submission points.

5.1 Technical Reports

Gore District Council Proposed Plan Change Rural Lifestyle and Settlement Zones - Flooding Assessment, authored by Tonkin & Taylor, June 2024 (Attachment 1)

37. In light of the submission from Environment Southland (ES), the Council have engaged Tonkin & Taylor to provide additional expert evidence relating to the notified rural ‘upzoned’ areas of the district that are subject to possible flooding, specifically areas potentially at ‘Significant Risk’⁵ of flooding within the Rural Lifestyle and Settlement zone areas of the PDP. This assessment identifies areas of the district considered to be at significant risk. The assessment also applies additional considerations such as flood velocity to determine the hazard category risk and whether adverse effects can be mitigated, or if areas of land are unsuitable for the proposed zoning. It is important to note that the mapping generated by Tonkin & Taylor does not factor in any stop bank protection or allowance for climate change.

Gore District Council Proposed Plan Change Industrial Zones - Flooding Assessment, authored by Tonkin & Taylor, July 2024 (Attachment 2)

38. For a similar reason, the Council engaged Tonkin & Taylor to provide additional expert evidence relating to the notified industrial areas of the district that are subject to possible flooding,

⁴ [Section 32 Reports | Let's Talk Gore District \(goredc.govt.nz\)](#)

⁵ Southland Regional Policy Statement 2017, Policy NH.5: Avoid areas of significant risk from natural hazards. Avoid new subdivision, development and placement of critical infrastructure in areas at significant risk from natural hazards, unless: (a) there is no reasonable alternative, in which case critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events; or (b) avoidance is impossible or impractical and adverse effects are mitigated to an acceptable level; or (c) subdivision is solely for the purpose of boundary adjustments.

specifically areas potentially at 'Significant Risk'⁶ of flooding within McNab and South Gore areas of the PDP. The assessment considers additional matters such as flood velocity to determine the hazard category risk and whether adverse effects can be mitigated, or if areas of land are unsuitable for the proposed zoning. It is important to note that the mapping generated by Tonkin & Taylor does not factor in any stop bank protection or allowance for climate change.

Gore District Council Proposed Plan Change – Rural Buildings in Inundation Areas, authored by Tonkin & Taylor, January 2025 (Attachment 3)

39. Based on the submissions seeking permitted rural buildings within the General Rural Zone, the Council have engaged Tonkin & Taylor to provide additional expert evidence on the potential risks of allowing buildings associated with primary production within the Actual and Potential Inundation area.

Gore District Council Proposed Plan Change – Mataura River Flood Model - Commentary, authored by Tonkin & Taylor, February 2025 (Attachment 4)

40. The Council engaged Tonkin & Taylor to provide expert advice on the ES Mataura River Flood Modelling Report⁷. The purpose of the ES flood model report is to assess the effectiveness of the existing stop banks and to model future improvement options to the flood protection scheme. The model assesses 1% AEP (1 in 100 year), and 2% AEP (1 in 50 year) events and focuses on the towns of Gore and Mataura. The hazard maps combine flood depth and velocity to identify a range of hazard risk areas categorised between 1 and 6.

Gore District Council Proposed Plan Change – Economic Assessment, authored by Savvy Consulting, January 2025 (Attachment 5)

41. Following the ES submission which seeks a precautionary approach and requests application of more restrictive provisions on subdivision, use and development compared to the more permissive provisions as notified, the Council has engaged Savvy Consulting to provide additional expert evidence assessing the economic implications of more restrictive provisions for regulating subdivision use and development within the identified hazard risk overlays.
42. This assessment applies to all zones and forms of development within the three identified hazard overlays.

Gore District Council Proposed Plan Change Maori Special Purpose Zones – Flooding Assessment, authored by Tonkin & Taylor, February 2025 (Attachment 6)

43. The Council has engaged Tonkin & Taylor to provide additional expert evidence relating to the notified Maori Purpose Zones due to the submission from Environment Southland (ES) opposing new 'upzoned' areas within the PDP capable of intensifying residential activities within flood prone areas.

⁶Ibid.

⁷ Mataura River Flood Modelling - Land River Sea Consulting 29 October 2024 [Hazards & protection - Environment Southland](#)

44. This provides an update to Ms Hampsons evidence in recognition of an amendment to an activity status for sensitive development within Mataura.

6. Consideration of submissions

6.1 Structure of the report

45. Submissions on the Natural Hazards chapter have raised a number of issues which have been grouped as follows;
- Submissions in support of provisions
 - General and Overview submissions
 - Mapping submissions
 - Additional provisions requested
 - Submissions specific to provisions
46. I have considered substantive commentary on primary submissions contained in further submissions as part of my consideration of the primary submission(s) to which they relate.
47. In accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on both an issues and provisions-based approach, as opposed to a submission by submission approach. Based on this approach I have organised the evaluation in accordance with the layout of chapters of the PDP as notified wherever possible, noting due to the grouping of topics this is not always possible.
48. Due to the number of submission points, this evaluation is generic only and may not contain specific recommendations on each submission point but instead discusses the issues generally. This approach is consistent with Clause 10(2)(a) of Schedule 1 to the RMA. Specific recommendations on each submission / further submission point are contained in **Appendix B**.
49. The following evaluation should be read in conjunction with the summaries of submissions and the submissions themselves. Where I agree with the relief sought and the rationale for that relief, I have noted my agreement, and my recommendation is provided in the summary of submission table in **Appendix B**. Where I have undertaken further evaluation of the relief sought in a submission(s), the evaluation and recommendations are set out in the body of this report. I have provided a marked-up version of the Chapter with recommended amendments in response to submissions as **Appendix A**.
50. This report only addresses definitions and submissions on mapping specifically relevant to this topic. Definitions that relate to more than one topic and general mapping submissions have been addressed in the Section 42A Introduction, General Provisions and Strategic Direction Report.

6.2 Overview of submissions

51. A total of 123 submissions and 40 further submissions are addressed in this report. A list of submitters on the topic of Natural Hazards is provided at the start of the report.
52. The submitters seek a range of amendments to the Natural Hazard Chapter although there is general support for the provisions and approach adopted within the Chapter. Overall, there is clear support for the objectives and policies which take a risk-based approach to managing activities within identified natural hazard areas, providing the opportunity to consider whether activities can appropriately mitigate the risks. Submissions from ES and SDC do question how the proposed natural hazard chapter aligns with high order direction and whether it is consistent.
53. The key issues identified through submissions include:

Directions for Avoiding or Managing Natural Hazard Risk:

- Amend objective NH-O3 to avoid subdivision and development within areas prone to significant natural hazard risk in accordance with the RPS.
- Add a new policy to establish management criteria for new subdivision and development where there is existing flood protection.
- Amend the policies to provide for hazard sensitive development and identify specific levels of risk.
- Amend policies NH-P2 and NH-P3 to avoid subdivision and development in unprotected areas at significant risk and manage existing development.
- Avoid all development within the Mataura River Floodway except for critical infrastructure.
- Amend rules to exclude sensitive activities from being established on flood prone land as a permitted activity.
- Amend the rules so development behind stop banks is not a permitted activity
- Prevent any new zones, or the ability to intensify within existing areas, that are subject to natural hazards.
- Amend policy SUB-P4 to avoid subdivision in medium, high and significant hazard areas.

Wildfire Risk Policies:

- Add additional policies to manage wildfire risk.

Infrastructure Hazard Policies and Rules

- Provide exemptions for KiwiRail and telecommunication providers from the natural hazard provisions.

- Distinguish critical infrastructure from other development within policies and rules due to operational needs or functional needs.
- Amend objectives and policies to ensure activities do not result in adverse effects on critical infrastructure.
- Exclude infrastructure from the rules controlling development in hazard areas and provide for them separately within the infrastructure chapter.

Non-Habitable Farm Buildings

- Add a new permitted rule for unoccupied farm buildings in hazard areas.

General amendments

- Take a pre-cautionary approach to liquefaction risk.
- Amend provisions wherever possible to recognise potential effects on mana whenua interests.

6.3 Format for consideration of submissions

54. For each identified topic, I have considered the submissions that are seeking changes to the PDP in the following format:
 - Matters raised by submitters;
 - Assessment;
 - Summary of recommendations; and
 - Section 32AA assessment.
55. The overall cohesion of the chapter framework is considered when assessing the submissions against the natural hazard provisions. This is to ensure the recommendations on individual provisions do not disrupt the policy direction links with the implementation measures of the rule structure. It is also important to consider how the policy direction aligns with the higher order statutory documents.

Hazard Maps

56. Where required, further expert advice has been sought when assessing submissions. This includes updated hazard assessments where submissions have raised concern, as identified within section 5.1 of this report. The notified PDP natural hazard chapter applies provisions linked to spatial hazard overlays. These comprise the following based on the GDC hazard overlays and correspond to the extent of historic flood events:
 - Actual and Potential Inundation area
 - Maitai River Floodway

- Stopbank Protection Area

57. The Councils consultant flood engineers, Tonkin & Taylor, have provided further hazard assessments based on their nationwide flood model. This provides a better level of hazard risk as it is based on categorising depth and velocity of flood waters to provide a relative range but is still limited in some areas as it does not include climate change allowance or recognise the existing flood alleviation (stopbank) infrastructure. **Figure 1** below shows the range of hazard categories H1 – H6 of the AEMI guideline.

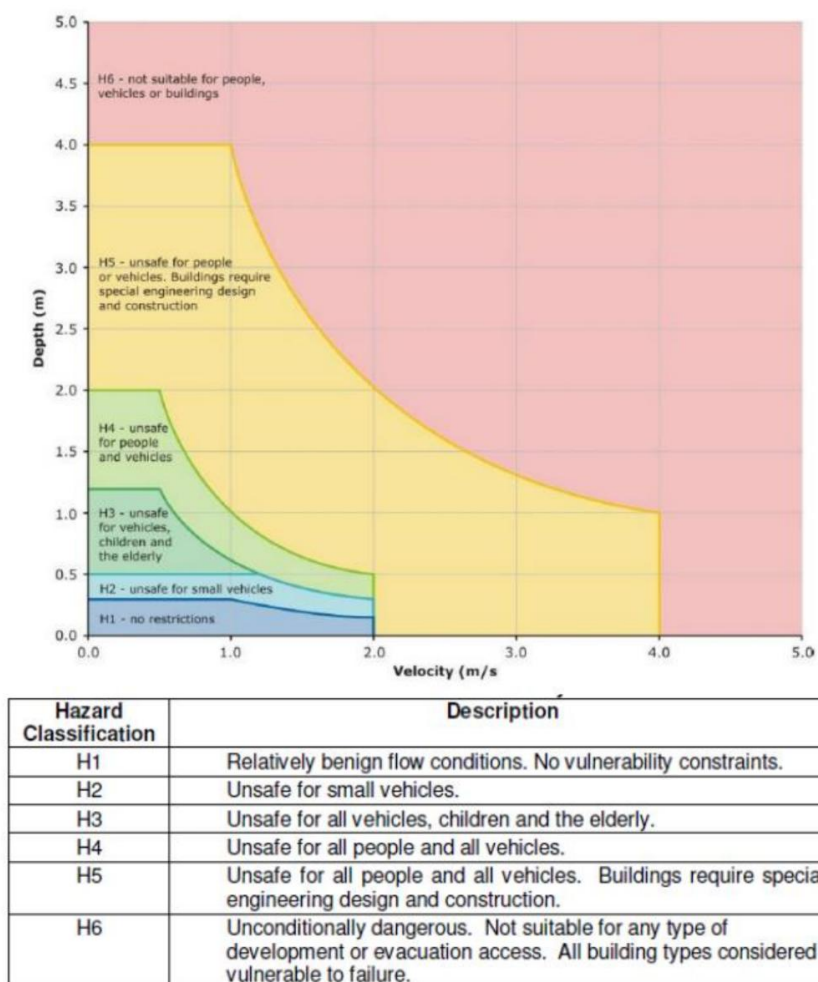


Figure 1: Australian Emergency Management Institute (AEMI) Guideline 2014 – Risk categories.

58. ES have recently undertaken a flood model assessment which also categorises depth and velocity of water for different event scales, and which also includes the stopbank infrastructure. However, it does not include climate change and does not cover the entire flood plain. This limits its ability to be used immediately in plan making and due to the timing of release, the limited scope of submissions and natural justice issues, could not be introduced directly into the PDP hazard maps. Despite this, it still represents the most recent and comprehensive assessment of flood hazard risk to the district and once the catchment modelling is complete it would provide an ability to undertake a future variation or specific plan change to update the natural hazard chapter.

59. The recommended amendments to the relevant chapters are set out in **Appendix A** of this report where all text changes are shown in a consolidated manner.

6.4 The 'Risk Based Approach' and Hazard Maps

6.4.1 Policy NH-P1 – Risk Based Approach

60. Nine submissions were received in support of Policy NH-P1 which establishes the intent to apply a 'risk based approach' to natural hazards. Eight submitters (S112.058, S126.066, S115.067, S143.078, S148.079, S60.069, S68.187 and S85.087) support the risk based approach within the policy and seek it be retained as notified. A further submission (FS5.22) supports the ES submission (S85.087) on the grounds further mapping would improve certainty.
61. The submission from SDC (S146.018) supports the policy in part but seeks changes to incorporate specific levels of risk (low, moderate or high) in accordance with the proposed NPS-NHD which was consulted on in 2023.

Assessment

62. The submission by SDC to incorporate specific levels of risk does not propose how the policies would be amended. Furthermore, I note the request is repeated against each of the eight notified natural hazard policies (NH-P1 to NH-P8). The SDC submission also questions whether the proposed chapter aligns with national and regional policy directions in relation to sensitivity of development.
63. The risk based approach forms a central component of the natural hazard chapter and is supported by submitters. Therefore, I have addressed the manner in which the proposed chapter applies the risk based approach, before turning to the SDC submission querying the consistency with national direction and requesting the incorporation of hazard risk levels and hazard sensitive development.

The Risk Based Approach and Hazard Maps

64. Policy NH-P1 of the notified natural hazards chapter establishes a 'risk-based approach' which represents the current best practice for managing natural hazard risk within district plans. The approach follows the MfE guidance⁸ based on the GNS risk-based approach to hazard planning⁹ which in turn also draws from the international standard for risk management¹⁰.
65. A risk-based approach considers the tolerance of a proposal based on the sensitivity of the activity to the scale of natural hazard risk. Not all activities have the same sensitivity to natural hazard risk. Residential buildings and community service facilities have a greater sensitivity to a hazard risk compared to non-habitable accessory buildings. For flooding, hazard maps will

⁸ MfE, 2010. Preparing for Future Flooding: A Guide for Local Government in New Zealand. Ministry for the Environment May 2010.

⁹ GNS, 2013. Risk Based land use planning for natural hazards risk reduction, GNS Science Miscellaneous Series 67, September 2013. WSA Saunders, JG Beban, M Kilvington.

¹⁰ ISO 31000:2009 Risk Management – Principles and Guidelines

distinguish the different areas of risk based on depth and velocity during certain flood event sizes, and categorise the hazard risk areas as either 'low', 'moderate' or 'high' within the flood extent area. The rules are then able to provide for development in lower risk areas where mitigation is considered achievable to manage the risk and discourage development in areas of high risk.

66. However, the flood hazard overlays within the PDP are limited to existing layers provided by GDC, which have identified flood hazard areas over time based on historic events, observed extents and flood depth recordings. They do not distinguish the low, moderate or high areas and instead apply the same level of risk across the entire area. This means that all of the land within the Actual and Potential Inundation overlay is treated at the same hazard risk status. As such, the policy and rule framework must take a precautionary approach to flood hazard risk (in accordance with policy NH.4 of the RPS) until more robust flood model mapping is available.
67. Notwithstanding this, there is still an ability to distinguish more sensitive activities for subdivision and development relative to the hazard risk area, recognising residential activities are more sensitive to hazards than non-habitable buildings and therefore distinguishing the activity status of provisions relative to the hazard risk. I have assessed this matter in further detail below in regard the SDC submission requesting the incorporation of 'hazard sensitive development'. For the reasons provided within that assessment I consider that hazard sensitivity is better addressed within NH-P2, NH-P3 and (in relation to the ES submission) within rule NH-R2¹¹.
68. Updated flood model mapping will certainly improve the risk based approach to managing hazards and enable the different hazard risk areas to be distinguished. I note the RPS identifies territorial authorities will be responsible for establishing and maintaining provisions in district plans that *inter alia* "(a) identify and map land subject to known inundation..." (Method NH.5, Section 8.4, RPS) while the Southland Regional Council will be responsible for maintaining and providing information on natural hazard risk and providing technical assistance and information to territorial authorities to "... (c) assist in identifying and mapping land subject to natural hazard risks" (method NH.3, section 8.4, RPS).
69. In this regard, the ES submission (S85.087) advised they would be "... undertaking some further independent modelling analysis to ensure flood mapping is accurate...". With updated modelling, the existing hazard risk areas identified by GDC could be better distinguished and it would greatly improve the visibility of suitable areas for development within lower risk areas rather than adopting a precautionary approach which seeks avoidance generally across a broad area due to lack of clarity on varying hazard risk.
70. Just prior to finalising this s42A report, ES confirmed the release of the flood modelling for the central part of the Mataura River floodplain. Council's flood engineers Tonkin & Taylor have reviewed the model. The advice is attached as **Attachment 4, Appendix C**. Unfortunately, the limitations of the model and the timing does not allow for incorporating within the PDP but does

¹¹ "Sensitive activities" are already included within the notified version of the chapter.

represent the opportunity to consider a variation or separate plan change to better address the updated hazard information.

Recommendation

71. I recommend, for the reasons given above, that policy NH-P1 is retained as notified with no changes.
72. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.4.2 The SDC Submission – Hazard Risk and Sensitive Activities

73. SDC (S146.016) made a general submission supporting in part the natural hazard chapter. The submission questions whether the proposed chapter aligns with national and regional directives, such as the proposed National Policy Statement for Natural Hazard Decision-making 2023 (“NPS-NHD”) in relation to hazard sensitive development, and requests modification to the natural hazard policies to include specific levels of hazard risk, with the reason being to avoid the need for future plan changes. Alignment is also requested with the objectives and policies of SDC to avoid cross boundary issues.
74. The submitter also separately requests modification to identify specific levels of risk against each of the eight natural hazard policies (NH-P1 to NH-P8) (S146.018, S146.019, S146.021 and S146.023 to S146.027 inclusive), which directly relates to the overall general submission.
75. ES (S85.097) make a similar request for the PDP to consider incorporating the terminology and other indicators in the draft NPS-NHD to guide how the chapter is written.

Assessment

76. The general support of the chapter is acknowledged. Currently there is no National Policy Statement for natural hazards, although a consultation draft in the form of the proposed NPS-NHD was released for feedback in September 2023. The NPS-NHD proposes identifying three different levels of natural hazard risk (Low, Moderate or High) and includes a definition of “New Hazard Sensitive Development”. In essence, the NPS-NHD policies direct avoidance within high risk areas, mitigation within moderate risk areas and enable development in low risk areas.

Specific Levels of Risk

77. While the PDP natural hazards chapter does distinguish the policy approach to development based on whether the area of hazard risk is “significant” or not, it does not identify the three differing levels of hazard risk (i.e. High, Moderate or Low) as that requires updated flood modelling, which was not available at the time of drafting the notified PDP chapter. Although it is best practice to identify the different hazard risk areas, it does require updated hazard mapping and if introduced at this late stage there is concern it would raise natural justice issues as it was not available at the time of notification or during the submission phase. It would also require substantial amendments to the policy and rule framework.

78. That aside, the PDP is required to be consistent with the RPS which sets the policy direction based on the identification of being within a 'significant risk' area or not, as opposed to the three risk levels. The RPS is a higher order document and therefore the PDP chapter must be consistent with the RPS policy directions as opposed to the proposed NPS-NHD which is not government policy and therefore is a non-statutory document.
79. Since the consultation release, the government has advised that it intends to progress national direction for natural hazards through a single instrument to be in place by mid-2025¹². This will align with the wider reform of the RMA which includes changes to other national direction instruments¹³.
80. Given it is not known what final form those changes will take, any benefits of aligning to the consultation draft now in order to future proof the district plan are limited by the uncertainty of what form the policy directives will eventually take. I also note the NPS-NHD is proposed to be released after the hearing stream timetable for the PDP. I therefore do not agree with the perceived benefits of 'future proofing' on the grounds it would be more appropriate to address any future policy directives through a future plan change if necessary, which would also benefit from updated comprehensive flood modelling and the opportunity for all persons to be part of the submission process. There is also the issue of the RPS policy direction for natural hazards needing to be updated once the NPS-NHD comes into force. For these reasons incorporating the specific levels of risk, as opposed to the current significant risk approach, is not appropriate at this point in time due to mapping constraints.
81. I note the SDC general submission requesting insertion of specific levels of risk is also made separately against each of the eight policies (NH-P1 to NH-P8). For the reasons provided above I recommend rejecting that request on the grounds I do not agree with the perceived benefits of future proofing and that it would be more appropriate to address this comprehensively as a separate plan change in the future where it can be supported with appropriate hazard mapping.

Hazard Sensitive Development

82. The SDC submission (S146.016) requests inclusion of "hazard sensitive development" within the chapter. The notified version of the PDP already includes a definition for "sensitive activities" which is referenced within the natural hazards chapter within rules NH-R2 and NH-R5. However, there is no reference to this defined term within any of the policies. The inclusion within the policy framework would certainly improve alignment with the rules and clarify the intended application of the provisions for plan users.
83. The PDP defines "Sensitive Activity" as:
- "Sensitive Activity** means any:
- (a) health care centre or hospital.
 - (b) educational facility, including school, early childhood facility, play centre.
 - (c) residential activity, including retirement village and supported residential accommodation.

¹² <https://environment.govt.nz/news/national-direction-natural-hazards/> (MfE, August 2024).

¹³ <https://www.beehive.govt.nz/release/rma-reform-phase-two-priorities-and-plan>

- (d) visitor accommodation.
- (e) places of worship.
- (f) marae or Papatipu Rūnanga complex.
- (g) Graveyard or urupā.”

84. A review of district plans from adjacent district councils, including some which have recently been made operative, shows a common range of identified activities. These include Southland District Plan (April 2024), Clutha District Council (1998), Queenstown Lakes District Council (2024) and Dunedin City Council (2024). The definitions generally comprise buildings and uses that are more sensitive to hazards as they are locations that groups of people congregate, or dwellings where people live and include a range of ages and levels of mobility. It also includes emergency services which form critical lifeline services following natural hazard events. The identified activities also align to some degree with the building importance categories within the Building Act.
85. Incorporating reference to sensitive activities enables the policies to distinguish these activities in relation to the hazard risk area. This means activities that are not defined as sensitive are not treated the same within significant risk areas due to the inherently lower risk. That in turn enables the activity status of the rules to also distinguish between different activities so that non-habitable accessory buildings are not treated the same as new dwellings. This assists the chapter towards achieving a risk based approach in the absence of specifically identified hazard risk areas.
86. Therefore, while the sensitive activity definition is already in the PDP and referenced within two proposed rules (NH-R2 and NH-R4), I have recommended amendments to include reference to sensitive activities within the assessment of policy NH-P2 and NH-P3 which is addressed within **section 6.6.2** of this report. The references are considered as part of the wider relief sought to those policies and would clarify direction and alignment with the rule framework. For these reasons I do not support amendments to NH-P1.
87. I also recommend retaining the reference to “sensitive activities” within rule NH-R2 and including further use of it as part of the amendments addressing the relief sought by the submissions to that rule. The assessment of submissions against that provision is provided separately within this report.

Regional Policy Statement

88. As outlined above¹⁴, the proposed natural hazards chapter and the recommended amendments do take into account the regional policy direction for natural hazards from chapter 8 of the operative Southland RPS (2017). The RPS is a statutory document and forms a higher order direction that the PDP must be consistent with.
89. The policy direction within the proposed natural hazards chapter and the consideration of the submissions are undertaken to maintain alignment with the RPS, which include among others, the key directions within policies NH.4, NH.5 and NH.6 addressing activities and significant risk

¹⁴ In particular the assessment against objective NH-O3 and policies NH-P2 and NH-P3, within this report.

from natural hazards. While not as refined as the three hazard risk areas, this does achieve consistency in the policy direction by implementing an approach to avoid development within significant risk areas and requiring mitigation in areas not identified at significant risk.

Southland District Plan Policies

90. The submission from SDC seeks that the natural hazard policies of the PDP align with the policies within the SDC district plan. While cross boundary issues do need to be considered, it is not required to directly align with the policies of adjacent territorial authorities. To some extent this can broadly occur through both district plans having a statutory requirement to be consistent with the Southland RPS policy direction.
91. Notwithstanding this, I note the natural hazard chapter of the SDC district plan comprises one objective and six policies. In general, those policies seek avoidance of subdivision, use and development within areas at significant risk and mitigation of those activities within other areas. The policies also recognise the benefits of natural hazard protection measures and natural landform features and require a precautionary approach to managing effects of climate change to ensure potential adverse effects are avoided or mitigated.
92. As such, the SDC policies share a similar direction with the PDP natural hazard policies, which seek to avoid subdivision, use and development within areas at significant risk, and manage activities within other areas. The policies also encourage use and maintenance of natural features to manage natural hazard risks and recognise the benefits of hazard protection, while avoiding impacts of development on the function of protection works. Accordingly, while not required, a general alignment can be observed between the natural hazard chapters of SDC and the proposed PDP. I do not recommend any amendments to directly align with the operative SDC policies.

Recommendation

93. The support and request for policy NH-P1 to be retained as notified by the other submitters is acknowledged and accepted.
94. For the reasons provided above the request by SDC is rejected insofar as it relates to policy NH-P1. No amendments to policy NH-P1 are recommended.

6.5 General Submissions

6.5.1 Submissions in Support

95. The following provisions are supported by submitters who seek they are retained as notified:
 - a. FENZ (\$124.006) support the definition of “Natural Hazard” as notified, as it is consistent with section 2 of the RMA.
 - b. NZTA (\$112.053), Alliance (\$121.045), Silver Fern Farms (\$40.036) and KiwiRail (\$132.041) support objective NH-O1 as notified. In particular, Alliance and Silver Fern Farms support the flexible effects management approach towards natural hazard risk, which can be tailored to the risk profile of specific sites/proposals.

- c. Alliance (S121.047) and MOE (S125.017) support objective NH-O3 as notified, noting agreement with the ability to locate development where natural hazard risk can be mitigated.
- d. NZTA (S112.055) supports objective NH-O5 as notified.
- e. Alliance (S121.044) and Silver Fern Farms (S40.035) support the “Overview” section of the chapter, noting the section adequately states the context of the natural hazard chapter, particularly with respect to providing flexibility in the management response for existing developed areas.
- f. NZTA (S112.058), Federated Farmers (S126.066), Kevin Robertson (S115.067), Rural Ratepayers Group (S143.078), Alistair & Bernadette Hunt (S148.079), Ronald Crispin (S60.069), John Baynes (S68.187) and ES (S85.087) support policy NH-P1, seeking the policy be retained as notified. In particular, the submissions support the risk based approach to the management of subdivision, use and development.
- g. Alliance (S121.048), Silver Fern Farms (S40.037) and MOE (S125.018) support policy NH-P2 as notified, noting it is an appropriate framework for considering proposal located on land at risk from flooding. Fuel Companies (S16.041) also support policy NH-P2 as notified, noting in particular that clause 4 as it relates to hazardous substances.
- h. MOE (S125.019) support policy NH-P3 seeking it be retained as notified.
- i. MOE (S125.021) support policy NH-P4 seeking it be retained as notified.
- j. NZTA (S112.060) support policy NH-P6 as notified.
- k. Fuel Companies (S16.042) support policy NH-P8 as notified.
- l. NZTA (S112.061) and KiwiRail (S132.050) support rule NH-R1 as notified.
- m. Alliance (S121.050) and MOE (S125.025) support rule NH-R2 as notified, noting it is efficient and reasonable to escalate from a permitted activity to a restricted discretionary activity status where the minimum floor level is not met.
- n. ES (S85.093) support rule NH-R3 as notified.
- o. NZTA (S112.062) support rule NH-R6 as notified.

Assessment and Recommendation

- 96. Support for the provisions above are acknowledged and are accepted in part subject to the recommended changes within this report.
- 97. For clarity, no changes are recommended to the following provisions:
 - a. Natural Hazard Definition
 - b. NH-O1
 - c. NH-O2

- d. NH-O5
- e. NH-P1
- f. NH-P4
- g. NH-P5
- h. NH-P7
- i. NH-P8
- j. NH-R1
- k. NH-R3 (Now NH-R7)

98. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.5.2 Mapping of the Actual and Potential Inundation area

99. CFMA (S99.004) requests consultation with Environment Southland in relation to the mapped flood hazard within the PDP Rural Lifestyle Zone around Mandeville as it appears to be inaccurately identified.

Assessment

100. The submission does not state a position on this issue or offer further detail as to what degree of inaccuracy is represented. Notwithstanding this, I have sought comment from ES as requested by the submission.
101. The PDP maps show the RLZ is located within the Actual and Potential Inundation area overlay. I understand the layer to be based on flood information received from Gore District Council, relating to the ODP hazard overlay which generally aligns with the Southland Significant Floodplain layer. The hazard maps for the catchment have been built up over time and represent a collection of historic flood extents, observations and flood measurements. ES advised (S85.087) that they have been undertaking updated flood modelling of the catchment which provides more accurate identification of the flood extent. However, the recent modelling does not extend to include the Mandeville area. Future flood modelling is expected to address the Mandeville area but the timing for this is unclear at this stage.
102. In the event updated flood hazard mapping is available I am uncertain as to whether there is scope to amend the hazard layer as notified as it could result in natural justice issues where the extent is altered. Notwithstanding this, the amended provisions within the Actual and Potential Inundation area recognise the Rural Lifestyle Zone and provide for extensions to existing buildings as a permitted activity, or new buildings for sensitive activities as a restricted discretionary activity where the minimum finished floor level is located above the 0.5% AEP flood hazard.

Recommendation

103. I do not recommend any further amendments on the basis the submission did not state a position and only requested consultation with ES on the accuracy of the overlay.

6.5.3 Stormwater Secondary Flow Paths

104. ES (S85.068) opposes in part the overview section of the Urban Form and Development chapter regarding the need to form a better evaluation of stormwater capacity during flood events. This extends to protecting secondary flow paths from development that could restrict the flow of water.
105. A further submission from Hamish Weir (FS5.8) opposes in part the ES submission, stating the secondary overflow paths are already covered under the Gore District Council Subdivision and Land Development Bylaw 2019 so there is no need to introduce further regulation. KO supports in part (FS28.006) the ES submission stating while restrictions may be appropriate, provisions should provide for management and mitigation.

Assessment

106. I note the ES submission is directly related to the request (S85.069) for an additional provision in the Urban Form and Development chapter which was assessed within the section 42A report (Introduction, General Provisions and Strategic Direction) in Hearing Stream 1. The issue is specifically addressed within section 7.10.2 of that report and recommends rejecting the request noting that it is too detailed for the strategic objectives of the plan and is already dealt with generally within UFD-O1 (5). The assessment also notes NH-O3 seeks that new development is located in areas where the natural hazard risk is adequately managed and not exacerbated on other sites, which in turn is consistent with the RPS direction.
107. I concur that NH-O3 seeks to avoid new subdivision and development within areas at significant risk and where it is not practical to avoid, then the adverse effects are appropriately mitigated and effects are not exacerbated on other sites. In addition, policies NH-P2 and NH-P3 also require adverse effects of flood risk are mitigated and will not exacerbate adverse effects beyond the site.
108. The policies are implemented through the rule framework, primarily within NH-R2 which has been amended as part of addressing the relief sought by ES (S85.092) in relation to the management of hazard risks via consenting pathways. The matters of discretion include the appropriateness of the mitigation measures to address the risk, and to avoid increasing the flood effects on people and property or displacement of flood waters onto adjacent sites.
109. The flood hazard overlays do not extend to a level of detail that identifies secondary flow paths, so requiring avoidance of them would create uncertainty. However, the provisions as identified above will generally address this issue when assessing applications within the flood hazard overlays, together with the requirements of the Bylaw.

Recommendation

110. It is recommended that the ES submission is rejected and the further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.5.4 Riparian Planting

111. Nigel Cowburn (S152.017) makes a general submission under the heading 'overview' supporting the use of exotics in flood control areas on the basis setting it to only native would impede successful design.

Assessment

112. The submission does not reference which provision or chapter the statement relates to. The only reference to riparian planting within the natural hazard chapter is objective NH-P7 which encourages use, maintenance and enhancement of natural features and buffers such as riparian planting to manage natural hazard risks. However, the control of planting within the floodplain is not regulated by the natural hazard provisions. Planting within riparian margins is variously managed through matters of discretion throughout the plan chapters related to setbacks from rivers and streams. Outside the PDP, planting within the floodplain is managed through the Southland Flood Control and Drainage Management Bylaw 2020 which requires prior authority before anyone can plant or grow any vegetation within the specified floodplain area.
113. It is unclear which provision or part of the PDP the reference applies to and given the natural hazard chapter does not regulate riparian planting I recommend rejecting the submission.

Recommendation

114. For the above reasons it is recommended that the submission is rejected.

6.5.5 Managed Retreat

115. Robina Johnston (S140.001) submitted on the Urban Form and Development chapter of the PDP. The submission was originally acknowledged and addressed within the s42A report within Hearing Stream 1. The assessment noted the submission may also require further consideration within the Natural Hazard hearing stream given the reference to hazard overlays. The submission seeks managed retreat for Gore community as it is cheaper than mitigation and that growth needs to be projected for 30 years with the west of Gore being most appropriate for growth.

Assessment

116. Section 7.10 of the s42A report¹⁵ to Hearing Stream 1 addressed the submission confirming growth has been projected for 30 years with references to this within objectives UFD-O1, UFD-O2 and UFD-O9 while West Gore is identified as a growth area in UFD-O2(2). The report also noted that while managed retreat has not been included, UFD-O1(5) requires consideration of the long-term impacts of climate change and natural hazards which has resulted in a risk based approach to natural hazards.

¹⁵ Section 42A Report: Introduction, General Provisions and Strategic Direction.

117. The UFD chapter forms the PDPs broad strategic directions. It does not include managed retreat and equally it is not identified within the notified version of the natural hazard chapter which instead focuses on a risk-based approach to managing natural hazard risk. This is not unusual as Council's may consider managed retreat, but it is not a requirement and is considered by MfE¹⁶ as one of four options which include "... protecting our assets (stop banks), accommodating the change (raising properties), avoiding high risk areas or retreating."
118. MfE describes managed retreat as moving homes, businesses and sites of cultural significance or taonga out of harm's way in a carefully planned process. That somewhat understates a very complex process that requires significant, pointed and ongoing engagement with the community to explore the issues and implications before any attempt should be made to regulate the actions. The Report of the Expert Working Group on Managed Retreat¹⁷ identifies the lack of national direction on relocation, unclear roles or responsibilities including funding responsibilities and insufficient legal powers to coordinate a planned approach as representing some of the challenges to managed retreat.
119. Notwithstanding the above, the concept of retreating from a hazard risk area has obvious merits. However, the feasibility of such an option requires investment in time, resources and potentially funding. Whether managed retreat is "cheaper" than mitigation has not been specifically investigated but advice from the Council's consultant Economist (**Attachment 5, Appendix C**) is that the average cost of mitigation is minor with respect to total development cost and yet the benefits are significant in terms of resilience from future flood hazard events. This is based on the PDP provisions which represent managing hazard risk in the immediate future (together with flood protection works managed by ES) and therefore does not preclude Council and community considering managed retreat as a longer term option.

Recommendation

120. For the reasons above, and acknowledging the merits of managed retreat, I recommend rejecting the submission.

6.5.6 Hazardous Substances

121. The submission by the Alliance Group Limited (S121.032) seeks an amendment to HAZS-P1 as follows:

"Manage adverse effects from new significant hazardous facilities locating in the General Industrial Zone or and Rural Industry Precinct by:

(...)

2. locating significant hazardous facilities outside of, and setback from, sensitive environments and avoiding **significant** adverse effects on Ngāi Tahu cultural values; 3.

¹⁶ [Managed retreat | Ministry for the Environment. May 2024.](#)

¹⁷ [Expert Working Group on Managed Retreat. 2023.](#) Report of the Expert Working Group on Managed Retreat: A Proposed System for Te Hekenga Rauora/Planned Relocation. Wellington: Expert Working Group on Managed Retreat. August 2023.

locating significant hazardous facilities outside the Maitava River Floodway and all mapped district inundation areas **not protected by the mapped Stop Bank Flood Protection Area** to avoid the effects of natural hazards and protect the environment; and...”

Assessment

122. Section 8.5 of the s42A report¹⁸ to Hearing Stream 6 addresses the requested amendments sought to policy HAZS-P1 by Alliance. I note the assessment and reasons provided within paras 169 – 173 of that report and concur with the recommended amendments to HAZS-P1.
123. However, the report also acknowledges that in the case of HAZS-P1(3) it would be difficult to locate significant hazardous facilities in a General Industrial Zone (GIZ) and outside a mapped inundation area. This is due to virtually all the GIZ areas being located within a flood hazard overlay (the except being McNabb GIZ which only a small portion is located within the flood hazard area).
124. In addition, the Councils consultant flood engineers, Tonkin & Taylor, has provided updated advice (**Attachment 2, Appendix C**) regarding the flood hazard risk within the South Gore GIZ area and notes the hazard is lower risk than originally assessed. The expert advice is that appropriate mitigation could be achieved through raised finished floor levels. Accordingly, other GIZ areas within the flood hazard overlays may also be able to consider appropriate mitigation following an assessment of the hazard risk and in the event further updated flood hazard modelling is undertaken. The activity status for new significant hazardous facilities is Discretionary which allows full consideration of all actual and potential adverse effects.
125. As such, there is sufficient evidence to suggest a new significant hazardous facility could be accommodated at the South Gore DEV1 site, and potentially at other GIZ or RIP areas subject to considering the site-specific natural hazard risk and appropriateness of mitigation measures. As such I recommend amending the policy to provide consideration for significant hazardous facilities within General Industrial Zone and Rural Industry Precinct on an effects based approach rather than simply avoidance. This is a balanced approach allowing the constraints of the site to be assessed and whether the adverse effects can be appropriately addressed. Based on this and relying on the advice outlined within **Attachment 4, Appendix C**, it is recommended that a reliance approach is adopted rather than one of avoidance.
126. In respect to excluding significant hazardous facilities from within the Maitava River Floodway, I consider this is appropriate given the high hazard risk of this area and it is also consistent with the policy direction (NH-P9) and rules (NH-P4) for the Maitava River Floodway which comprise an “avoid” direction and a non-complying activity status.

Recommendation

¹⁸ [Section 42A Report: Contaminated Land and Hazardous Substances](#)

127. For the reasons outlined above and acknowledging the conflict between providing for hazardous facilities within industrial zones, whilst also avoiding natural hazard risk, I recommend the following amendment to HASZ-P1:

HAZS-P1

3. locating new *significant hazardous facilities* outside the Mataura River Floodway ~~and all mapped district inundation areas to avoid the effects of natural hazards and protect the environment~~; and
4. *Locating and designing new significant hazardous facilities to manage or avoid the risks and adverse effects from natural hazards within the Actual and Potential Inundation area or Stop Bank Protection area*; and
5. managing cumulative *effects* of multiple separate *significant hazardous facilities* locating in close proximity.

6.6 Directions for Avoiding or Managing Natural Hazard Risk

6.6.1 “Significant Risk” Policy NH-O3

128. ES (S85.085) oppose Objective NH-O3 stating subdivision and development in areas at “significant risk” should be avoided in order to be consistent with the policy direction of the Southland RPS. It is noted that the concerns raised against this objective are also carried through to policy NH-P2, policy NH-P3 and rule NH-R2 which implements the policy direction. Those matters are considered later within this report when addressing those specific provisions. The further submission from Hamish Weir (FS5.20) opposes the ES submission simply stating that the provision is adequate.
129. NZTA (S112.056) supports the objective subject to an amendment that specifically identifies land transport infrastructure in clause 2 to ensure adverse effects of natural hazards are not exacerbated on the transport network. KiwiRail (S132.042) also support the objective subject to a similar amendment that specifically identifies the rail network at clause 2 to ensure adverse effects are not exacerbated on the rail network. In addition, KiwiRail request the term “adequately” be changed to “appropriately” to strengthen the requirement of the objective.
130. Alliance Group Limited (S121.047) and Ministry of Education (S125.017) seek the objective be retained as notified.

Assessment

131. The ES submission on objective NH-O3 states there is no consideration of how new development will be managed within areas at significant risk. ES request it be amended to provide for avoidance of development where there is significant risk from natural hazards as required by the Southland RPS. This also raises the question of what is ‘significant risk’ and where these identified areas are located.
132. For clarity, the relevant RPS policy is NH.5 which states “Avoid new subdivision, development and placement of critical infrastructure in areas at significant risk from natural hazards, unless... (b) avoidance is impossible or impractical and adverse effects are mitigated to an acceptable level...”.

133. I agree that the notified wording of NH-O3 does not extend to directly address the outcome sought for development in relation to significant risk areas and could be amended to clarify this outcome. However, the RPS policy direction is not absolute and does not explicitly require avoidance of subdivision and development. Rather it includes provision for situations where avoidance may be impossible or impractical and the adverse effects can be completely mitigated.
134. Furthermore, the degree of the natural hazard impact on an activity is dependent on its sensitivity. The explanation to Policy NH.5 highlights this point, noting some forms of development such as residential will be more at risk than others. I therefore accept in part the requested amendment, subject to including recognition it is not always possible to avoid significant risk and that some activities are more sensitive to the risk than others. I have recommended amendments to this effect below which also improves alignment with the policy direction in NH-P2 and NH-P3 (which represent the policy pathway to achieving this objective).
135. With regard to the identifying significant risk, the explanation to RPS policy NH.5 states areas potentially at significant risk include areas that have flooded previously and for which the likelihood of inundation has not been reduced by flood alleviation works designed to protect the area from floods with at least 2% or less AEP. This means that the flood hazard overlay identified as the Actual and Potential Inundation area is generally considered an area of significant risk due to it being unprotected by flood alleviation works. The ES submission does not include any evidence or mapping to identify the location of significant risk areas, and the overlay does not distinguish the significant risk areas from the areas that are not significant. Accordingly, it is relevant to ensure recognition of some less sensitive activities and the ability to consider mitigation, in order to avoid an unduly conservative objective while still maintaining ability to assess and determine the risk.
136. The submissions from both NZTA and KiwiRail seek specific reference to land transport infrastructure and rail network within clause 2. The notified wording of clause 2 states “not exacerbated on other sites”. The term “sites” is defined within the PDP and uses the same meaning as that of the National Planning Standards. This means “sites” include all legally defined allotments and titles held under the Land Transfer Act. This may not be sufficient to include designations or vested land which often comprise the road and rail network. These transport corridors are located adjacent to ‘sites’ within the district where development could generate an offsite effect through the displacement of flood water. The purpose of clause 2 within NH-O3 is to ensure natural hazard risk is not exacerbated on any adjacent site beyond the boundary of the subject site. As such, it is considered more appropriate to amend the clause to clearly articulate the intent, by stating “not exacerbate beyond the site” rather than addition reference to specific requiring authorities or the transport agency.

Recommendation

137. I recommend, for the reasons given above, that objective NH-O3 is amended as follows:

~~Ensure~~ new subdivision and development for sensitive activities are not only located in areas subject to significant ~~where the natural hazard risk is,~~ and where it is not possible to avoid, the adverse effects are:

1. ~~adequately~~appropriately managed to mitigate the hazard effect on people and property; and
2. not exacerbated beyond the ~~on other~~ sites.

138. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

139. The following evaluates the recommendation to amend NH-O3 under section 32AA of the RMA.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner. The amended objective improves alignment with the high order policy direction of the RPS, in particular policy NH.5, and removing ambiguity as to the outcome sought in relation to activities within areas of significant risk.

Costs and benefits

The benefits of the proposal are that it is clear what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. There are no apparent costs with the proposal.

Risk of acting or not acting

There is the potential for confusion if the proposed amendment is not made as the wording of the objective did not fully align with the RPS.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the purpose of the Act than the notified version of the PDP.

6.6.2 Policies for Avoiding and Managing Risk: NH-P2 and NH-P3

Policy NH-P2

140. ES (\$85.088) oppose policy NH-P2 seeking a number of fundamental changes including the creation of a new policy, all based around the request to align with the RPS policy direction for natural hazards. The submission requests the policy be split so that there are two parts, with the first being to change “manage” to the much stronger “avoid” direction for new subdivision on unprotected flood plains and the second part to require a “manage” approach to the use and development on existing lots. Lastly, the submission requests a new policy be added to establish some management criteria for new subdivision and development where there is existing flood protection such as the Gore main street area. In summary, the submission requests the policy be changed to achieve the following policy directions;

- (a) Avoid new subdivision on unprotected flood plains; and

- (b) Manage use and development on existing lots; and
 - (c) Manage new subdivision, use and development on protected flood plains.
141. ES state that the existing stop banks have a design limitation and climate change impacts will mean that the design standard will be exceeded in the future. As such a restrictive approach is requested for land use development behind stop banks, hence the request for a new policy managing subdivision, use and development on protected flood plains.
 142. SDC (S146.019) requests addition of specific levels of risk to policy NH-P2. This request has been repeated against all eight natural hazard policies. I have addressed those submissions collectively in section 6.4.2 of this report. This also includes the request (S146.016) to include recognition of hazard sensitive development within the natural hazard chapter.
 143. Four further submissions opposing the ES submission were received. Hamish Weir (FS5.23) seeks the ES submission is disallowed on the grounds it is very restrictive and indicates ES do not intend to upgrade flood protection measures. Kainga Ora (FS28.033) similarly oppose the ES submission in part considering it to be too restrictive and request the mapping should sit outside the plan in order to update it as required. Overall, Kainga Ora oppose the ES submission on the grounds that provisions should provide for management and mitigation, rather than setting a blanket avoidance direction for subdivision and development, which is onerous if flood risk can be mitigated.
 144. Silver Fern Farms oppose the ES submission stating a blanket avoidance for all subdivision in flood prone areas is excessively restrictive, failing to consider differing levels of risk exposure for different activities and forecloses scope for appropriate mitigation. CFMA also oppose the ES submission stating the focus should be on managing development in flood prone areas not trying to restrict subdivision without evidence that confirms a nexus between subdivision and development.
 145. The submissions by Alliance (S121.048), Ministry of Education (S125.018), Fuel Companies (S16.041) and Silver Fern Farms (S40.037) all support the policy and seek it is retained as notified.
 146. Fulton Hogan (S122.004) seek the following amendment to clause 1 of policy NH-P2 in order to improve clarity and make it consistent with the same clause of policy NH-P3:

~~“1. Ensuring that the activity is not likely to result in significant damage in a flood event; and~~
in the event of a natural hazard there is likely to be no loss of life or serious injury and any built development is not likely to suffer significant damage or loss”
 147. A further submission (FS28.032) by Kainga Ora supports the requested amendment by Fulton Hogan.
 148. NZTA (S112.059) supports Policy NH-P2 but seeks an amendment to ensure activities within flood risk areas do not result in adverse effects on the safe and efficient operation of the state highway network. The requested amendment would add a further clause referencing “critical infrastructure” as follows:

“8. Ensuring that the activity does not result in adverse effects on the safe and efficient operation and function of critical infrastructure.”

Policy NH-P3

149. ES (S85.089) oppose policy NH-P3 and seek the deletion of the words “unless it can be demonstrated that the risks can be mitigated”. ES 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. A further submission from Hamish Weir (FS5.24) opposes the ES submission stating the word “avoid” should not be used.
150. The SDC (S146.021) submission requesting addition of specific levels of risk to policy NH-P3 has been repeated against all eight natural hazard policies. I have addressed those submissions collectively in section 6.4.2 of this report. This also includes the request (S146.016) to include recognition of hazard sensitive development within the natural hazard chapter.
151. The Ministry of Education (S125.019) supports policy NH-P3 and seeks it is retained as notified.
152. Federated Farmers (S126.067), Kevin Robertson (S115.068), Rural Ratepayers Group (S143.079), Alistair & Bernadette Hunt (S148.080), Ronald Crispin (S60.070) and John Baynes (S68.188) all support Policy NH-P3 subject to amending the term “mahinga kai” to italics due to it being a defined term within the PDP.
153. KiwiRail (S132.044) oppose in part policy NH-P3 on the basis it has potential to cause “undue critical risk on the provisions of critical infrastructure” within the Maitai River Floodway. KiwiRail advise they may wish to undertake future protection works to the bridge which may be required outside the designation and therefore request a specific exclusion from the policy.

Assessment

154. To avoid confusion, I have first assessed the core policy amendments requested within the ES submission due to this having fundamental implications on the policy direction for managing risk and development, including how the policies reference the relevant hazard overlay areas and scope of activities, including infrastructure. Following that, I then address the balance of submissions against policies NH-P2 and NH-P3.

Assessment – ES submission

155. The ES submission opposes policy NH-P2 and requests three specific policy directives:
 - (a) Avoid new subdivision on unprotected flood plains; and
 - (b) Manage use and development on existing lots; and
 - (c) Manage new subdivision, use and development on protected flood plains.
156. The request is essentially based around aligning the PDP policies with the RPS policy direction for natural hazards. It is also driven by ES’s concern the existing stop bank protection is not able to withstand a 1% AEP (1 in 100 year) flood event.

157. For context there are eight natural hazard policies within the RPS. Policies NH.4, NH.5 and NH.6 are particularly relevant to the ES submission. Policy NH.5 states:
- “Avoid new subdivision, development and placement of critical infrastructure in areas at significant risk from natural hazards, unless... (b) avoidance is impossible or impractical and adverse effects are mitigated to an acceptable level...”.
158. I addressed policy NH.5 earlier (above) within this report in relation to the ES submission (S85.085) on objective NH-O3, which sought avoidance of areas at significant risk. While the RPS does not define “significant risk”, the explanation to RPS policy NH.5 states areas potentially at significant risk include areas that have flooded to a depth more than 100 millimetres previously, and for which the likelihood of inundation has not been reduced by flood alleviation works designed to protect the area from floods with at least 2% or less AEP.
159. Essentially the policy direction within the RPS is based around the notion of ‘protection’ in order to determine ‘significant risk’ and distinguishes the approach on whether an area is protected or unprotected. The assumption is that protected areas are at less risk than those which are unprotected and therefore at ‘significant risk’. This is a very generalised and conservative approach, used when there is an absence of more detailed flood hazard information. It assumes every property within the entire overlay area will experience the same level of risk, which is rarely true, especially for large overlay areas. Moreover, it considers land that could potentially flood by 10cm or more in depth within an unprotected area represents a significant risk.
160. In the case of the PDP, it means that the flood hazard overlay identified as the ‘Actual and Potential Inundation’ area is considered an area of ‘significant risk’ due to it being unprotected by flood alleviation works. However, advice from the Council’s consultant flood engineers, Tonkin & Taylor, is that there are a range of hazard risk areas within the Actual and Potential Inundation overlay, ranging from very low and moderate which can mitigate the hazard risk, through to high risk areas which could not mitigate the hazard risk due to the likely depth and speed of flood waters (**Attachment 1, Appendix C**). Recent modelling released by ES has been reviewed by Tonkin & Taylor (**Attachment 4, Appendix C**) which also supports this assessment, showing areas of very high risk, but also large areas within the Actual and Potential Inundation overlay are low risk. As such, assuming all unprotected areas are at “significant risk” is a very blunt approach that undermines the intent of the risk based policy direction contained within Policy NH-P1 and does not align with current best practice.
161. Conversely, the RPS considers land behind a stop bank that is designed to offer protection from a 2% AEP (1 in 50 year) event as a protected area and therefore subject to Policy NH.6 which simply states new subdivision, and development shall mitigate the adverse effects of natural hazards. The RPS therefore anticipates development within these areas subject to appropriate mitigation. This is because, despite the presence of stop bank protection, there remains a residual risk of flooding, from either failure of the stop bank or overtopping during a flood event that is greater than the stop banks maximum design which is a concern raised by ES (S85.088). This area equates to the ‘Stop Bank Protection’ overlay on the PDP maps and comprises a large area of the Gore township which benefits from a stop bank that provides a 2% AEP level of protection but does not provide protection from a 1% AEP (1 in 100 year) flood event.

Stop Bank Protection Overlay

162. It is important to clarify that the natural hazard provisions as notified do not apply within the Stop Bank Protection area. The provisions only apply within the 'Actual and Potential Inundation' and 'Mataura River Floodway' overlays). However, ES have advised the February 2020 flood met the maximum design capacity of the stop banks in Gore and Mataura. The ES Mataura River Flood Model Report as reviewed by Tonkin & Taylor (**Attachment 4, Appendix C**) advises the stop banks within Gore and Mataura are expected to overtop in a 1% AEP (1 in 100 year) event resulting in flooding within the protected stop bank area. As such, ES request development within the area be addressed via a new policy. Tonkin & Taylor advise this is a valid risk and provisions should manage development within this area.
163. Based on the RPS direction within policy NH.6, and the recent modelling by ES showing an event could result in the stop banks overtopping, I agree that the Stop Bank Protection area overlay should be addressed by the provisions. The direction would recognise the existing risk to development within this area and would be aligned with NH.6 which seeks mitigation of natural hazard effects on subdivision, use and development within areas prone to flooding but protected by flood alleviation works.
164. The wording of policy NH-P2 as notified would be an appropriate policy approach for this area, providing a 'manage' direction and clauses requiring a minimum finished floor level for development and identification of suitable building platforms in the case of subdivision. The effect on the function of the flood plain and avoiding displacement of water onto avoid sites is also addressed by the policy clauses. As such, amending this policy by removal of the reference to the Actual and Potential Inundation area overlay and amending to apply the policy to the Stop Bank Protection area would achieve this outcome.

Mataura Floodway Overlay

165. Conversely, the Mataura River Floodway is an area of very high hazard risk. The Council's consultant flood engineers, Tonkin & Taylor, has advised the function of this area is to allow flood waters to disperse unhindered and would typically comprise fast and deep flowing water representing a significant risk and it would be inappropriate to provide for further development within this area, which should not be obstructed by buildings or structures.
166. The ES submission (S85.089) opposing policy NH-P3 (the policy directs avoidance within the Mataura River Floodway, unless mitigation can be achieved) seeks the deletion of the words "unless it can be demonstrated that the risks can be mitigated" for the same reason. ES state that the Mataura River Floodway is a significant risk and all development, except for critical infrastructure, should be avoided within this area. The recent ES flood report (Nov, 2024) shows this area comprises hazard category H5 and H6 which represent a very high hazard risk¹⁹.

¹⁹ **Category H5:** Unsafe for vehicles and people. All buildings vulnerable to structural damage. Some less robust buildings subject to failure. **Category H6:** Unsafe for vehicles and people. All building types considered vulnerable to failure. (Table 8-1, pg. 78, ES Flood Report, November 2024).

167. I accept that development should be avoided in this area based on the expert flood advice and consider it would not be appropriate to provide for consideration of development as currently included within the clauses of policy NH-P3, due to the degree of hazard risk. However, rather than amend this policy as requested, I recommend removing the reference to Mataura River Floodway and creating a new policy that simply directs avoidance within the Mataura River Floodway, which would be consistent with RPS policy NH.5. That would also retain alignment with the Non-Complying activity status for activities with the Mataura River Floodway (as notified) while also providing a gateway test for unanticipated activities.
168. The issue of critical infrastructure within this area have been addressed separately later within this report, which is distinguished from buildings and structures in general. I agree with the position stated by ES (S85.089) that the Mataura River Floodway is a significant risk and all development, except for critical infrastructure, should be avoided within this area. Therefore, removing “critical infrastructure” as part of the recommended amendment addresses this submission point. This leaves Policy NH-P3 to be considered further below in relation to the submission relating to the Actual and Potential Inundation overlay.

Actual and Potential Inundation Overlay

169. Policy NH-P2 relates to the Actual and Potential Inundation area. The ES submission requests an amendment to requiring use and development on existing lots to be managed but for subdivision to be split out to simply ‘avoid’, removing consideration of whether it can be appropriately mitigated. Excluding subdivision on all existing properties in the Actual and Potential Inundation area sets a very strong policy direction and applies a very conservative interpretation of RPS policy NH.5 by accepting the entire overlay area is a ‘significant risk’ and ignoring the qualifier “unless” which recognises there may be situations where avoidance is impossible or impractical and provides for the ability to mitigate those adverse effects to an acceptable level.
170. The requested approach places the focus on controlling an activity based solely on whether it is subdivision or land use rather than considering the degree of hazard risk. Further, it removes the ability to assess and consider the hazard risk and sensitivity to that risk for subdivision simply due to it being located within a very broad overlay area. That is inconsistent with a risk based approach which provides for consideration of the level of hazard risk and whether mitigation is appropriate. Much like development on existing lots, subdivision may be located in areas of low risk (in the Actual and Potential Inundation area) where mitigation could be considered to determine if it is appropriate. That is due to the hazard risk within the broad overlay area not being uniformly the same but rather comprising varying levels with some areas that represent more risk than others.
171. ES have recently released the Mataura River Flood Model Report which advises there are areas of low risk within the unprotected Actual and Potential Inundation overlay. Providing for future subdivision to consider the updated flood risk information showing the identified flood risk levels would assist in determining whether it would be appropriate, rather than simply stating subdivision as an activity must be avoided.
172. The above assessment dovetails with the balance of the ES request to split the NH-P2 policy to “manage” use and development on existing lots. Policy NH-P2 is directed to ‘manage’ activities

within the Actual and Potential Inundation area; ES may wish to clarify this point, but it appears the opposition could be based around the more enabling use of 'manage' for subdivision within a potentially greater hazard risk area. As part of addressing the various amendments I recommend amending policy NH-P3 which, as notified, addresses the Mataura River Floodway to instead address the Actual and Potential Inundation area and therefore adopt the policy direction of "Avoid, unless..." subject to the relevant criteria.

173. The above amendments provide consistency with the RPS policy direction (NH.5) while also elevating the policy direction to reflect the potentially greater risk of the Actual and Potential Inundation area. In doing so I also recommend the clauses of NH-P3 be amended to address this approach by including the additional clause "requiring the identification of suitable buildable areas, for example via building platforms, at the time of subdivision" as this was already included as a clause within the policy direction relating to the Actual and Potential Inundation area, and therefore it is a consequential change of amending the overall direction to 'avoid, unless...'. I also recommend adding the clause "*any hazard risk to sensitive activities is avoided*". This addresses the SDC (S146.016) submission requesting recognition of 'hazard sensitive development' which I accept within this policy to address the hazard risk. These two clauses strengthen the requirement to provide suitable building locations relative to the risk, and for adverse effects from natural hazards on "sensitive activities" to be avoided.
174. As such, I reject the amendment to set the policy direction to simply 'avoid' for subdivision as it fails to recognise there are low hazard risk areas within the Actual and Potential Inundation area and would remove the ability to consider whether subdivision on lots in the unprotected areas could reasonably mitigate that risk. The amendment would still provide for avoidance of development in high risk areas, particularly sensitive activities, which could be identified through use of the updated flood model held by ES.
175. I note the further submissions in opposition to the ES submission raise similar concerns that a "blanket avoidance policy for all subdivision in flood prone areas is excessively restrictive" (FS29.038) and "overly onerous if flood levels are low and can be managed or mitigated" (FS28.033). While there will be high hazard areas, the policy direction would still provide for proposals that could not achieve appropriate mitigation to be declined. Recent modelling completed by ES (November 2024) provides updated hazard category mapping allowing ES to clarify the hazard risk to landowners and supports a consenting pathway to consider the activity.
176. For similar reasons I accept the requested amendment (in part) to manage use and development within the Actual and Potential Inundation area, by amending NH-P3 to address both subdivision and development within the Actual and Potential Inundation area which incorporates the policy direction "Avoid, unless...".
177. I consider that this achieves a closer step towards a risk based approach, as outlined in Policy NH-P1 while also being consistent with the RPS policy direction for natural hazards, noting they are outdated but nevertheless a higher order document.
178. Therefore, I recommend addressing the three requested policy amendments by ES (S85.088) together with the ES submission (S85.089) opposing policy NH-P3 as follows;
 - a. Reject the request to avoid subdivision on unprotected areas

- b. Accept the request to manage use and development on existing lots
 - c. Accept request to manage subdivision, use and development on protected areas.
179. The manner to address these recommendations involve amending both NH-P2 and NH-P3 at the same time as they comprise the two policy directions that align with the RPS and contain the relevant clauses to address mitigation requirements relevant to the hazard risk, subject to amending the reference to the relevant hazard overlay.
180. Policy NH-P2 retains the “manage” direction but changes the reference to the Stop Bank Protection overlay. The “avoid, unless...” direction would remain for NH-P3, but it would reference the Actual and Potential Inundation area (instead of the Mataura Floodway) and a new policy would address the Mataura River Floodway with an “avoid” direction due to the high hazard risk within the Mataura River Floodway.
181. The overall alignment of the policies and the relevant hazard overlays can be summarised as:

Policy	Policy Direction	Overlay	RPS alignment
NH-P2	Manage	Stop Bank Protection	NH.6
NH-P3	Avoid unless	Actual & Potential Inundation	NH.5(b)
NH-P9	Avoid	Mataura River Floodway	NH.5

182. While the RPS forms the relevant higher order policy document to which the PDP must be consistent, it is also acknowledged the RPS policy direction is limited by its use of ‘significant risk’ and the concept of protected versus unprotected land. Current best practice has evolved beyond that to identifying the inherent risk of flood hazards by categorising the speed and depth characteristics to identify areas of low, moderate or high risk and not whether an area is protected or not.
183. More recent flood events such as the Hawkes Bay event in February 2023 has emphasized the significance that residual risk, associated with stop banks, present to communities and development. I understand that ES is potentially reviewing the RPS which would present the opportunity to consider the timing of the NPS-NHD which is signalled to be released in mid-2025. This will provide an opportunity for national and regional policy directions on natural hazards to align.

Assessment – Other submissions on Policy NH-P2

184. The support and request to retain the policy as notified by Alliance, Ministry of Education, Fuel Companies and Silver Fern Farms is acknowledged and accepted subject to the amendments required to give effect to the relief sought through the other submissions.
185. SDC (S146.019) submission is rejected on the grounds the specific levels of risk are not identified on hazard maps in order to include them within the policy in a meaningful way. The full assessment of this submission is provided separately within section 6.4.2 of this report.
186. NZTA’s requested amendment to Policy NH-P2 is to address situations where subdivision, use and development, undertaken on flood prone land adjacent to the state highway network, could

result in adverse effects on the safe and efficient operation of the state highway by exacerbating surface water flooding, if the activity is inappropriately located.

187. The wording of policy NH-P2 includes clause 2 which provides a general requirement to maintain the function of the floodplain and not displace water onto other properties. The intention is for all development activities to consider the effect it may have beyond the boundary of its site, rather than specifically identify certain adjacent activities potentially located nearby. The policy is more directive if it simply states, “not displace water onto other properties”. However, to address the NZTA concern I recommend amending the clause to remove the “properties” reference which may not capture the NZTA network and instead focus the direction on not displacing water beyond the site, as follows:

“ 2. maintaining the functioning of the flood plain, and not displacing water beyond the site onto other properties; and” .

This is also consistent with the recommended amendment to NH-O3 addressing the same issue.

188. The submission by Fulton Hogan to amend the wording within Clause 1 of policy NH-P2 to be consistent with clause 1 of NH-P3 is accepted. The wording used in Policy NH-P2 makes no reference to impacts on life or injury and is vague in its direction when the intent is that those matters should be included and addressed. In general, I consider the wording inferior compared to that within Clause 1 of NH-P3 and agree it would improve clarity and consistency between the two policies. The further submission by Kainga Ora supporting this amendment is also accepted.

Assessment – Other submissions on Policy NH-P3

189. The submission by the Ministry of Education in support of policy NH-P3 seeking it be retained as notified is acknowledged and accepted subject to amendments required to address other submissions.
190. The six submissions supporting Policy NH-P3 subject to amending the term “mahinga kai” to italics is accepted. I agree the term is defined and for reasons of consistency within the PDP it should be italicized.
191. The SDC (S146.021) submission is rejected on the grounds the specific levels of risk are not identified on hazard maps in order to include them within the policy in a meaningful way. The full assessment of this submission is provided separately within section 6.4.2 of this report. However, in relation to the SDC request (S146.016) for recognising hazard sensitive development, I recommend amending policy NH-P3 to add reference to sensitive activities to clarify direction and alignment with the rule framework given that “sensitive activity” is already defined within the PDP and is referenced within two proposed rules (NH-R2 and NH-R4). As such, I recommend adding the following as a new clause 4 item to the existing list of clauses;

“4. any hazard risk to *sensitive activities* is avoided; and”

192. This will strengthen the policy alignment with the relevant rule consistent with the amendments recommended to the PDP policy direction as sought through submissions.

193. The submission by KiwiRail opposes in part policy NH-P3 due to it potentially causing “undue critical risk on the provisions of critical infrastructure” within the Maitara River Floodway. The KiwiRail submission requests amending the policy to insert a specific exclusion as follows:

“Avoid subdivision, use and development and critical infrastructure (Excluding the Rail Network) within the Maitara River Floodway...”.

194. I reject the submission due to the reference to the “Maitara River Floodway” being removed from the policy as a consequence of addressing the relief sought by the ES submission. As such, the policy now refers to the Actual and Potential Inundation Area so that the rail bridge would no longer be captured by this policy. Furthermore, the requested exclusion by KiwiRail is superseded by the removal of “critical infrastructure” from the policy as part of addressing the ES submission, meaning the need to exclude “rail network” is also now rendered unnecessary.
195. Notwithstanding the above, the rail bridge (and the wider Main South Line) benefits from an existing designation which means that any works within the designation would be specifically excluded from the natural hazard provisions. However, if any works were significant enough to extend beyond the footprint of the designation, then it would be entirely appropriate for the natural hazard provisions to apply in order to assess the effects, given the significant risk represented by the Maitara River Floodway and the effect those works could have on the surrounding area.

Recommendation

196. I recommend, for the reasons given above, that policies NH-P2 and NH-P3 are amended as follows:

NH-P2

“Manage the subdivision, use and development ~~and subdivision~~ of *land* in all mapped Actual and Potential Inundation areas, with the exception of the Stopbank Protection Areas by:

1. ensuring in the event of a natural hazard, there is likely to be no loss of life or serious injury and any built development is not likely to suffer significant damage or loss; ~~that the activity is not likely to result in significant damage in a flood event;~~ and
2. maintaining the functioning of the flood plain, and not displacing water beyond the site onto other properties; and
3. requiring a minimum floor level for buildings above the 0.5% AEP design flood level; and
4. requiring hazardous substance storage to be resilient to inundation; and
5. ensuring adverse effects on people, cultural values, and property are avoided or mitigated; and
6. ensuring increased risk on other sites is avoided; and
7. requiring the identification of suitable buildable areas, for example via building platforms, at the time of subdivision.”

NH-P3

“Avoid subdivision, use and development ~~and critical infrastructure~~ within the Actual and Potential Inundation Area ~~Maitara River Floodway~~”, unless it can be demonstrated that the risks of the *natural hazard* can be mitigated so that:

1. in the event of a *natural hazard*, there is likely to be no loss of life or serious injury and any built development is not likely to suffer significant damage or loss; and
2. it will not require new or upgraded public hazard mitigation works to mitigate the *natural hazard*; and
3. it is not likely to exacerbate the potential *effects* of the *natural hazard* on *adjoining land* or surrounding *land*; and
4. any hazard risk to sensitive activities is avoided and
5. will not result in adverse *effects* to *water* quality due to storage of *hazardous substances* in the *floodway*; and
6. it would not exacerbate adverse *effects* on *mahinga kai* on the event of a flood hazard; and
7. requiring the identification of suitable buildable areas, for example via building platforms, at the time of a subdivision.

197. I also recommend the insertion of a new policy for the reasons provided above to read as follows:

NH-P9

“Avoid subdivision, use and development within the Mataura River Floodway”

198. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

199. The following evaluates the recommendation to amend NH-P2 and NH-P3 and insert a new policy NH-P9 under section 32AA of the RMA:

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner and provide clearer direction to plan users. The recommended amendments to policy NH-P2 and NH-P3 and addition of NH-P9 will:

- Resolve an identified inconsistency with the higher order directions. In particular the amendments improve consistency with policies NH.5 and NH.6 of the RPS which distinguishes the approach to subdivision use and development depending on whether it is protected or not; and
- The amendments are clearer for plan users, improving the effectiveness of the policy direction in protected areas and unprotected areas by clearly linking to the relevant identified hazard overlay areas; and
- The amended policies provide more effective and efficient support of the rule framework by including reference to ‘sensitive activities’ to link within the natural hazard rules.

The amendments will therefore improve the effectiveness and efficiency of the policy PDP policy direction in relation to the Council’s statutory responsibilities under the RMA.

Costs and benefits

The transaction costs for addressing natural hazards have been assessed as minor, however the economic benefits, of the amended policy direction relating to development for sensitive activities, is considered potentially significant.

This includes the avoided (or reduced) cost that may be incurred to remediate flood damage on new dwellings that could have developed in flood hazard overlays with little or no mitigating factors. Furthermore, economic advice is that the policies will not constrain the projected dwelling growth for the district over the life of the PDP.

As such, the benefits of the amended policy direction will result in new development for sensitive activities to be more resilient when compared to the notified PDP policies, and it will be clearer to plan users what is required in terms of PDP administration.

Risk of acting or not acting

The potential risk of not acting is the establishment of a policy framework that is inconsistent with the higher order directions of the RPS. The policies would also fail to address the stop bank protections area which is prone to flood hazards putting people and property at risk. Furthermore, the risk of not acting would undermine the rule framework used to implement the risk based approach to manage natural hazard risk.

Conclusion as to the most appropriate option

The proposed amendments are considered to be the more appropriate way to achieve the Objective of the act than the notified version of the PDP.

6.6.3 Rules for Subdivision, Use and Development within Hazard Risk Overlays – Rule NH-R2

200. Alliance Group (S121.050) support rule NH-R2 and seek it is retained as notified. The submitter states the rule is an efficient and reasonable approach implementing a permitted activity status starting point elevating to a restricted discretionary status where finished floor levels are not met. Silver Fern Farms (S40.039) also support NH-R2 and seek it is retained as notified for the same reasons.
201. The MoE (S125.025) support rule NH-R2 and seek it be retained as notified.
202. Hokonui Rūnanga (S139.056) support NH-R2 in part subject to amendments as sought within NH-P6 to specify the particular matters of concern to mana whenua.
203. ES (S85.092) oppose NH-R2 and seek amendments to exclude sensitive activities from being established on flood prone land as a permitted activity. This is related to the ES submission opposing the PDP policy framework and seeking similar amendments. ES state that internal alterations should be permitted but extensions or new buildings on hazard prone land should be require resource consent as providing for minimum finished floor levels as a permitted activity will incentivise development in medium and high risk areas. The submission also requests the rules be expanded to cover other natural hazards such as liquefaction and land instability.

204. Three further submissions opposing the ES submission were received. Hamish Weir (FS5.26) seeks the ES submission be disallowed on the basis provisions should only apply to flood plains and not theoretically prone land.
205. Kainga Ora (FS28.034) seek the ES submission be disallowed while acknowledging a precautionary approach is appropriate it should also be flexible to address the direct level and effect of a perceived risk and not be unnecessarily restrictive. CFMA (FS22.045) oppose the ES submission on the grounds it is excessively restrictive given the size of the urban area in Gore and Mataura that are subject to flood hazard coupled with the economic burden of consenting low risk additions.

Assessment

206. Rule NH-R2 is the main provision regulating development within the Actual and Potential Inundation area. It forms the implementation method for policy NH-P2 which I have recommended amendments be made in response to submissions raising concern with inconsistencies with the RPS policy direction and that within the notified natural hazard chapter. That assessment is provided in detail together with the recommended changes in the **section 6.6.2** of this report. In summary, I recommend changes to policies NH-P2 and NH-P3 to;
- a. Reject the request to avoid subdivision on unprotected areas; and
 - b. Accept the request to manage use and development on existing lots; and
 - c. Accept request to manage subdivision, use and development on protected areas.
207. The policy direction has been amended to align with the natural hazard overlays and with the RPS direction, as summarised in the table below. I therefore consider the submissions against Rule NH-R2 within this context.

Policy	Policy Direction	Overlay	RPS alignment
NH-P2	Manage	Stop Bank Protection	NH.6
NH-P3	Avoid unless	Actual & Potential Inundation	NH.5(b)
NH-P9	Avoid	Mataura River Floodway	NH.5

208. The notified PDP included rule NH-R2 which permits building sensitive activities within the Actual and Potential Inundation area subject to achieving a minimum floor level, despite this overlay comprising areas of significant risk. The rule also expressly excludes the provision from applying within the Stopbank Protection area although recent modelling by ES, as reviewed by Tonkin & Taylor (**Attachment 4, Appendix C**), has shown this area is at risk from inundation (see location in **figure 2**). The rule therefore does not align with the amended policy direction and does not address all potential hazard risks to the community.
209. The ES submission opposing rule NH-R2 requests a precautionary approach to subdivision and development on flood prone land, the requested amendments to exclude sensitive activities as permitted and require resource consent for extensions or new buildings on flood prone land is consistent with the ES position on other provisions within the chapter. It also seeks expansion of the rule to include other hazard risks.

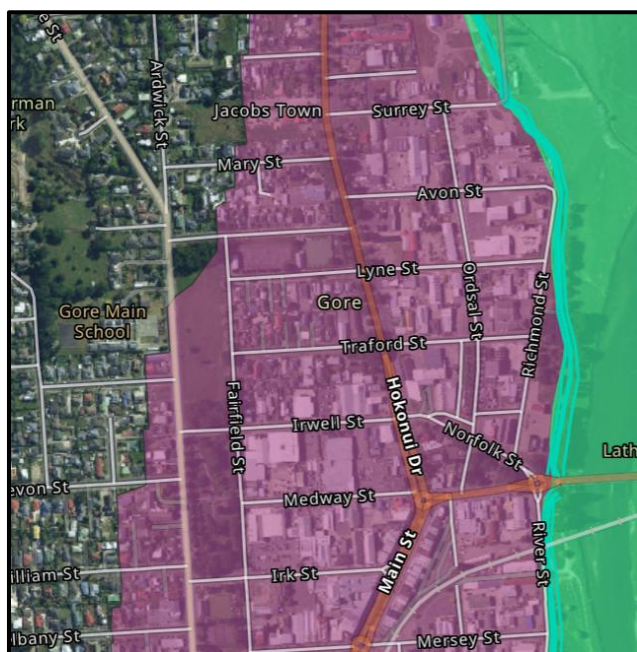


Figure 2: Gore township and the Stopbank Protection Area hazard overlay from the Gore PDP website (www.lets.talk.goredc.govt.nz).

210. Tonkin & Taylor have reviewed the ES flood model for the Matakura River (**Attachment 4, Appendix C**) and advise that despite the presence of stop banks there is a flood risk within the stop bank protection area during a 1% AEP event and it is recommended provisions be made for new development to mitigate the hazard risk to safeguard people and property. The subject area comprises a range of zones including MUZ, GRZ, MRZ and MPZ which provide for sensitive activities as a permitted activity. Therefore, based on this advice and the level of hazard risk to sensitive activities, I recommend the stop bank protection area should not be excluded, and instead development for sensitive activities²⁰ within this area should be managed by the rule framework as part of addressing the ES submission. This is also consistent with the RPS policy direction (in particular policy NH.6).
211. In doing so, the provisions also need to distinguish between the Actual and Potential Inundation area and the Stopbank Protection area, as highlighted by the ES submission, so as to be consistent with the higher order direction of the RPS. Therefore, I recommend amendments to the rules that recognise the risk within the unprotected Actual and Potential Inundation area, contrasted to that of the protected Stop Bank Protection area. This aligns with the amendments recommended to the policy direction within the natural hazard chapter in order to be consistent with the RPS direction in turn based on whether an area is protected or not.
212. However, I do not agree with ES that extensions or additions to existing development within this area should automatically require resource consent. The hazard risk already exists for these properties and as such, extensions could be provided for as a permitted activity where a

²⁰ "Sensitive activities" are defined within the PDP and comprise a range of residential activities which are more sensitive to hazard risk than non-residential activities such as commercial or industrial activities. This is due to the risk to life being higher as residential areas include a range of dwellings and densities where people reside and sleep increasing the potential risk.

minimum floor level standard can be achieved to address the risk to property, while recognising the risk to occupants would not necessarily increase as the number of household units or intensity of residential units on the site would not be changing. The benefits of requiring a resource consent process for an extension would therefore be marginal.

213. Where new buildings for sensitive activities are proposed in this area then I agree a consenting pathway would be reasonable to consider how the risk would be mitigated and as such agree with the KO submission which acknowledges a precautionary approach is appropriate but that it should also be flexible to address the level and effect of a perceived risk while not be unnecessarily restrictive. Tonkin & Taylor recommend provisions should require minimum finished floor levels and ensuring people can escape during a flood event (**Attachment 4, Appendix C**).

Sensitive Activities within the Stop Bank Protection Area

214. On this basis I recommend a resource consent pathway be required for new buildings for sensitive activities within the stop bank protection area as a restricted discretionary activity and require a minimum finished floor level above the 0.5% AEP flood level. Given the mixed use of activities within this area the provision should also include conversions for sensitive activities. Where the minimum floor level was not meet then the activity would be identified as a non-complying activity to provide for a full policy assessment.
215. Tonkin & Taylor have recommended the ES flood model could be used to provide the finished floor levels based on the flood level estimates within the stopbank protection area. However, the current model does not include the potential effects of climate change which is recommended by MBIE guidance in relation to ‘natural hazard provisions complying with sections 71 to 74 of the Building Act 2004’²¹. As such, Tonkin & Taylor recommend “... *that if the ES flood model is used to inform setting minimum floor levels, that the effects of climate change are considered. This would typically require the model to be re-run with climate change adjusted hydrology (i.e. river inflows).*” In addition, Tonkin & Taylor recommend emergency egress could also be assessed using the model.
216. The re-running of the flood model would also need to produce flood levels for a 0.5% AEP flood event which was identified by ES in the development stages of the draft district plan as the appropriate event level²². ES may wish to clarify whether that is still the case, or the 1% AEP is sufficient if it includes climate change, which as stated above is consistent with the recommended guidance for determining finished floor levels. The matters of discretion for the provision would address the ability for people to safely evacuate properties during a flood event and a note to the rule advises the finished floor level can be sought and obtained from

²¹ The Ministry of Business and Innovation & Employment guidance ‘Natural Hazard Provisions to comply with Section 71 to 74 of the Building Act 2004 (October 2023) states “it is pragmatic to include an allowance for sea level rise and increased rainfall intensity when modelling future flood levels so that the impact of inundation is considered for the whole of life of the building”.

²² [Section 32 Reports | Let’s Talk Gore District](#) Natural Hazards

Environment Southland. This is not an uncommon practice and is similar to that which occurs currently under the ODP.

217. These recommended changes would align the regulatory provisions with the PDP policy direction and higher order documents while also addressing the submission points. However, the changes do represent a regulatory shift from the notified version of the PDP which was much more permissive. I acknowledge the concerns made within the submissions by CFMA and Hamish Weir regarding the cost implications of the resource consent pathway and the extent of the overlays.
218. In this regard the Councils consultant Economist has undertaken an assessment of the proposed amendments and advised the cost implications on landowners from this rule approach would vary between 1% and 5% of the total development cost which is considered minor. Furthermore, the benefit of the mitigation would be significant through increasing the resilience of buildings and reducing the exposure of sensitive activities to hazard risk within identified flood prone areas (**Attachment 5, Appendix C**).
219. In the absence of more detailed hazard category maps the provisions will balance a risk based approach utilising the existing overlays and provide for site specific assessment to determine whether development is appropriate until such time as a comprehensive plan change based on updated and detailed flood modelling is available to refine the provisions.
220. Tonkin & Taylor (**Attachment 4, Appendix C**) advise commercial activities are less sensitive to hazard risk compared to residential activities yet there is still a risk of damage to infrastructure and buildings should the stopbanks overtop in Gore. Tonkin & Taylor advise there are some areas of H5 flood hazard where buildings may be vulnerable to structural damage and on this basis, there should be a clear public awareness of the risk to infrastructure and buildings for development within the Stopbank Protection Area.
221. The majority of the commercial area buildings are established and therefore only new buildings for commercial or industrial activities would need to consider the hazard risk, with the majority of the stopbank protection area identified as a medium hazard risk which does not require specific design for buildings. Based on the advice and the degree of hazard risk, then I agree the potential threat to life is reduced given the purpose of the buildings are not for sensitive activities. The need for structural design of new buildings is a factor if the building is proposed within a high risk area (for example an area with a category H5 or H6 risk) which is very limited within the stop bank protection area. The design of any new non-sensitive buildings would be addressed through the Building Consent process and the hazard risk information would be available via the Land Information Memorandum process. The Project Information Memorandum (PIM) is also able to highlight relevant information specific to the site and proposed project. As such, new buildings not defined as sensitive activities would not be captured by the provisions within the stop bank protection area and would remain subject to the underlying zone provisions and addressed through the LIM and Building Consent processes.

Activities within the Actual and Potential Inundation area

222. As assessed within **section 6.6.2**, the higher order direction distinguishes protected areas from 'unprotected' flood prone areas which effectively comprises the Actual and Potential Inundation

area overlay. The overlay is based on the Southland Significant Floodplain area representing historic flood extents, previous flood depth measurements and observational recordings and as such the overlay extent is broad. The lack of hazard mapping that distinguishes the various hazard risk areas means a balanced approach is required to address development within this overlay in order to be consistent with the RPS policy direction while also taking a practical approach in recognition of existing land use activities and development.

223. There are examples of existing settlements within this area such as Pukerau, Mandeville, and the township of Maitua as well as new the Maori Purpose Zone (MPZ). However, the majority of the land within the overlay is General Rural Zone. I have assessed the submission by ES opposing the new zones within the unprotected flood prone area separately below in **section 6.6.4**. To avoid confusion, I have included the recommended amendment to address the zones within the recommendation under this assessment given they are closely integrated. However, this assessment is based on the scope of managing existing and new development within Actual and Potential Inundation area.
224. The notified PDP rule NH-R2 provides for new (sensitive activity) buildings within the Actual and Potential Inundation area as a permitted activity subject to a minimum finished floor level. The ES submission opposes this as too permissive. Further submissions oppose the ES submission preferring the permissive approach.
225. The Tonkin & Taylor review of the recent ES flood model (**Attachment 4, Appendix C**) advises the hazard mapping does not cover the whole floodplain area and is focused on the areas north of Gore township to south of Maitua township. This leaves a gap and therefore uncertainty as to the degree of hazard risk within some parts of the Actual and Potential Inundation area. Of the areas within the overlay, the updated mapping shows a range of low to high (or significant) risk areas. Given the uncertainty I recommend a balanced approach to the provisions and agree the notified NH-R2 is too permissive potentially risking life and property from flood hazard risk, notwithstanding it is inconsistent with the higher order policy direction NH.5 of the RPS.
226. I therefore recommend amending the provision to recognise existing development and include extensions to existing buildings for sensitive activities within the Actual and Potential Inundation area, subject to the minimum finished floor level requirement as a permitted activity. The risk would not necessarily increase to the occupants of the existing building where it did not include additional household units.
227. However, locating new buildings within the Actual and Potential Inundation area would need to assess the potential hazard risk. The Actual and Potential Inundation area is expansive and advice from the Council's consultant flood engineers, Tonkin & Taylor, is that while some areas are low risk and can be adequately mitigated, other areas represent a high or significant risk and mitigation would not be appropriate. To manage this in the absence of more detailed hazard mapping a site specific assessment of the hazard risk would be necessary. This could be undertaken by the applicant independently or sought from ES as recommended above for the stop bank protection area. Therefore, I recommend where new buildings are proposed for sensitive activities in this area they should be identified as a Non-Complying Activity commensurate with the potential hazard risk and to align with the policy direction.

228. This approach would also include the existing township and residential areas of Mataura. While there are stopbanks to the north (Boundary Creek) and extending down the side of the Mataura River to the Mataura Falls, the section of river below the falls is not identified as including any stop bank infrastructure, potentially due to the nature of the river gorge and development either side. For whatever reason, this means Mataura is not identified as within a 'Stopbank Protected area' by the hazard overlays. This means the township of Mataura is effectively considered an 'unprotected' area and therefore new sensitive buildings within Mataura would be a non-complying activity. This is a very high activity status for any new buildings for sensitive activities on the assumption the entire residential zone is prone to significantly high hazard risk. However, this is not necessarily the case.
229. Tonkin & Taylor (**Attachment 4, Appendix C**) have reviewed the ES flood model and advise that in a 1% AEP event the model shows overtopping of the Boundary Creek stopbank (to the north) causing flooding within Mataura township. Maximum water depths and velocities in Mataura township are in the order of 1.5 to 2.5 m and velocities of 1 to 2 m/s. This results in a hazard categorisation within the majority of the Mataura township (western side of the river) ranging from H3 to H4, with some small areas of H5. Some areas of residential land are shown as unaffected or low risk (H1 or H2). In addition, Tonkin & Taylor also advise that there are areas on the eastern side of the river which would experience a low risk (H1) of flooding.
230. As such, the advice from Tonkin and Taylor illustrates that there is a range of hazard risks across this area where it would be feasible to mitigate the hazard risk through raising floor or ground levels. For those residential zoned properties, the non-complying activity status would be overly conservative in relation to the hazard risk. The higher order policy direction includes RPS policy NH.5 which seeks avoidance of a significant risk unless it is impossible or impractical and adverse effects can be mitigated to an acceptable level. Therefore, based on the advice from Tonkin & Taylor and the more refined hazard risk of this area from the updated modelling within Mataura, I recommend providing the ability to assess the hazard risk for new buildings for sensitive activities in the general residential zone of Mataura as a restricted discretionary activity. This would allow the site specific hazard risk to be identified and whether acceptable mitigation could be achieved. The indication is that mitigation would be feasible. The alternative setting would be as a non-complying activity on the basis the area is 'unprotected'.
231. The timing of the ES flood model release has precluded the ability to comprehensively address the provisions at a more refined level and in any case is outside the scope of submissions. However, this highlights the need for a comprehensive flood hazard model for the Mataura River catchment to develop provisions linked with clearer hazard risk mapping.
232. In terms of economic impact, the Council's Economist, Ms Hampson, has modelled the impact of the proposed provisions on residential development opportunity including an assessment of the economic costs and benefits (**Attachment 5, Appendix C**). The initial assessment addressed the non-complying activity status for sensitive activities within Mataura and identified an opportunity cost for landowners as they may be unable to realise the development potential of their land. Ms Hampson advised those with vacant land parcels would face the greatest opportunity cost through impact to land value while those with existing dwellings with some capacity for intensification could forgo the value uplift of that intensification.

233. However, having also considered the restricted discretionary activity status for sensitive activities within Mataura, Ms Hampson advises (**Attachment 7, Appendix C**) that under this activity status the land would still provide for residential development capacity, subject to managing adverse effects. The restricted discretionary activity status provides a reasonable level of certainty for landowners that sensitive activities can be developed. This means that the value of land is unlikely to change and opportunities for value uplift would still be possible (i.e. opportunity costs are, for most properties, removed).
234. Ms Hampson also advises that while landowners will face transaction costs to realise development potential, these are expected to be a minor additional cost relative to the value of the proposed development. Moreover, the benefits of increasing the resilience of new buildings for sensitive activities within flood prone areas will outweigh the costs of exposing life and property to adverse effects of flooding.
235. I have addressed the hazard risk to other areas and in particular the proposed new zones in the PDP located within the Actual and Potential Inundation area separately in **section 6.6.4** of this report.
236. Buildings for activities that are not defined as sensitive represent a lower threat to life given, they do not include residential activities. However, there remains a threat to property and potential for offsite adverse effects due to displacement. Accordingly, such development should be assessed to determine the degree of risk, whether appropriate mitigation can be achieved and if offsite effects are generated. I recommend that be addressed via a restricted discretionary consent pathway within the Actual and Potential Inundation area and where the requirements are not met, elevating to a non-complying activity. These are also addressed separately within **section 6.6.4** of this report.
237. I acknowledge the submissions by Alliance Group, Silver Fern Farms and MOE who support the rule as notified and seek it is retained. However, based on the statutory higher order direction, the broad extent of the flood hazard overlays and advice by the Councils flood engineers I recommend rejecting the more permissive approach, due to the high degree of risk it would present to people and property which is also inconsistent with the RPS policy direction.
238. In respect of the changes requested by Hokonui Rūnanga. The reference to certain matters of concern to mana whenua as adopted for NH-P6 does not necessarily transfer directly to the amended rules. As amended, rule NH-R2 now only applies to extensions to existing buildings and therefore it is unclear whether all identified mana whenua matters remain relevant or whether they would be better addressed through the SASM provisions. I would therefore recommend inviting the Hokonui Rūnanga to clarify this further through evidence to the hearing.
239. Regarding the request by ES to expand the rule to regulate other hazards such as liquefaction and land instability. The regulation of building on liquefaction prone land is currently managed by the building consent process which was updated in November 2021 to address foundation design following the Canterbury earthquakes. I do not recommend duplicating that existing regulatory process within the natural hazard provisions.
240. Regarding land instability. I note this is addressed by the Gore Council Subdivision, Land Use and Development Bylaw 2019 within Section 2: Earthworks and Geotechnical Requirements. In

addition, the PDP addresses land stability within the earthwork chapter with specific standards managing the potential effect of instability, including standards EW-S1 and EW-S2. Where the standards for cut or fill height or batter requirements are not met the activity elevates to a restricted discretionary activity with matters of discretion requiring consideration of the stability of land or structures in or on the site or adjacent sites and the potential to create new or exacerbate existing natural hazards, impact natural drainage patterns, redirect overland flow paths or flood flows. Accordingly, I do not consider it necessary to expand the rule to include land stability.

Recommendation

241. I recommend, for the reasons given above, that the rule NH-R2 be amended together with additional provisions added as follows:

NH-R2	<u>The addition to existing buildings for sensitive activities within areas subject to Actual and Potential Inundation and the Stop Bank Protection area</u>	
All Zones	Activity status: Permitted Where: - 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.; and~~ <u>No additional residential units are created on the site.</u> ~~Except that:~~ ~~(a) This rule does not apply to areas in the mapped Stopbank Protection Area.~~ <u>Note: Technical advice on the finished floor level required to comply with this rule can be sought and obtained from Environment Southland.</u>	Activity status where compliance is not achieved: Restricted Discretionary Matters of discretion: <u>The design incorporates suitable methods to mitigate the hazard risk to an acceptable level.</u> ~~The functional need and /or operational need to be located the building or structure in this location.~~ - Nature and extent of hazard risk to people, ~~Ngai Tahu cultural values~~ and property. <u>The extent design measures reduce displacement of flood waters onto adjacent sites.</u>
NH-R2.1	<u>The construction of new buildings, including conversion of existing buildings, for Sensitive Activities within the Stop Bank Protection area.</u>	

All Zones**Activity status:** Restricted Discretionary**Where:**

1. The finished floor level for the new building must be above the 0.5% AEP flood design level or in the case of converting an existing building, must ensure the finished floor level of all areas accommodating sensitive activities are above the 0.5% AEP design flood level.

Matters of Discretion:

1. The extent the design minimises the effect on people and property during a 0.5% AEP flood event.
2. The extent the design mitigates displacement of flood waters beyond the boundary of the site.
3. That ability for people to safely evacuate during a 0.5% Annual Exceedance Probability flood event.

Note: Technical advice on the finished floor level required to comply with this rule can be sought and obtained from Environment Southland.

Activity status where compliance is not achieved:

Non-Complying Activity

NH-R2.2**The construction of new buildings, including conversion of existing buildings within areas subject to Actual and Potential Inundation.****All Zones****Activity status:** Restricted Discretionary**Where:**

1. The proposal is:
 - a. A sensitive activity and located within the SETZ, RLZ or MPZ; or
 - b. A sensitive activity and located within the GRZ of Mataura; or
 - c. Not a sensitive activity within all zones; and
2. The building platform is located outside of any stream channel; and
3. The finished floor level for the new building is above the 0.5% AEP flood design level.

Matters of Discretion:

4. The extent the design minimises the effect on people and property during a 0.5% AEP flood event.
5. The extent the design mitigates displacement of flood waters beyond the boundary of the site.
6. That ability for people to safely evacuate during a 0.5% Annual Exceedance Probability flood event.

Note: Technical advice on the finished floor level required to comply with this rule can be sought and obtained from Environment Southland.

Activity status where compliance is not achieved with:

Non-Complying Activity

242. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

243. The following evaluates the recommendation to amend NH-R2 by differentiating the activity statuses based on the hazard risk overlays and sensitivity of development under section 32AA of the RMA.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner and provide clearer direction to plan users. The recommended amendments to policy NH-R2 will:

- Align with the recommended amendments to policies NH-P2 and NH-P3 and in turn resolve an identified inconsistency with the higher order directions.
- The greater range of activity statuses improves the ability to apply a risk based approach and provide for non-sensitive activities while not increasing the potential risk to life.
- The amendments are clearer for plan users, improving the effectiveness of the provisions by clearly distinguishing the relevant hazard risk overlays and tailoring the rules and activity statuses to those areas to manage natural hazard risk.
- The recommended amendments to the rule framework will directly align and implement the amended policy framework by recognising development for 'sensitive activities' and identifying the relevant matters of discretion and standards. Development for sensitive activities will be discouraged for significantly high risk hazard areas and managed subject to standards in other areas.

The amendments will therefore improve the effectiveness and efficiency of the policy PDP policy direction in relation to the Council's statutory responsibilities under the RMA.

Costs and benefits

The transaction costs of the amended rule framework addressing natural hazards has been assessed as minor, with the economic benefits of the amended provisions considered potentially significant. As such, the net additional economic benefits of the amended rules for buildings used for sensitive activities outweigh the net additional economic costs.

The economic assessment identifies the avoided (or reduced) cost that may be incurred to remediate flood damage on new dwellings that could have developed in flood hazard overlays with little or no mitigating factors. The recommended amendments will also support the economic, social and cultural effects by not constraining the projected economic (dwelling) growth for the district over the life of the PDP.

As such, the benefits of the amended natural hazard rules will enable new development for sensitive activities to be more resilient compared to the notified PDP provisions while also improving clarity to plan users what is required in terms of PDP administration.

Risk of acting or not acting

The potential risk of not acting is the establishment of an overly permissive framework that is inconsistent with the higher order directions of the RPS and could result in putting people and property at risk from natural hazard events where either avoidance or appropriate mitigation has been implemented. The risk of not acting would also result in an absence of any provisions applying within the stop bank protections area which is identified as prone to flooding which could put people and property at risk. Furthermore, the recommended amendments to policy framework would not be implemented undermining the risk based approach to manage natural hazard risk.

Conclusion as to the most appropriate option

The proposed amendments are considered to be the more appropriate way to achieve the Objective of the act than the notified version of the PDP.

6.6.4 Matters raised by submitters – Avoid New Zones in Hazard Risk areas

- 244. ES (S85.311) seeks to prevent any new zone changes from the current District Plan which have the potential to intensify land use change and development within a flood inundation area. The submitter considers that intensifying development in flood prone areas will put communities at risk. A further submission by Hamish Weir (FS5.199) opposes this submission.
- 245. New Rural Lifestyle Zones and Settlement Zones are proposed within the existing settlements of Waikaka, Mandeville and Pukerau which are predominantly identified as General Rural Zone within the ODP, (although some spot Industrial zoning is present at Mandeville and Pukerau). New Rural Lifestyle Zones are also proposed north and east of Mataura and to the west of Gore township.
- 246. In addition, new industrial zoning is proposed within South Gore/Charlton (South Gore Industrial Development Area DEV1) and within the McNab area northeast of Gore.

Assessment

- 247. The section 42A report for the Rural Zone²³ (Hearing Stream 3) considered similar submissions from ES opposing the new RLZ and SETZ zones. As part of that submission, ES sought the addition of performance standards and criteria regarding minimum floor levels to be repeated against all applicable rules and standards within each of the zone chapters and in addition a new policy requiring a precautionary approach to development. The assessment of that submission did not support duplicating natural hazard provisions individually throughout the zone chapter provisions. I agree with that position and support the recommendation.
- 248. I also note that the reporting officer referred to the provisions of the Natural Hazards chapter and in particular rule NH-R2 and NH-R3 which addresses development within the actual and potential inundation area as the appropriate provision to manage development. With further reference to the Tonkin & Taylor report (**Attachment 1, Appendix C**) assessing the flood risk in relation to these new zones, adjustments were recommended to the proposed zoning extent to

²³ Rural Zone section 42A Report – Hearing Stream 3 (www.goredc.govt.nz)

exclude the higher hazard risk areas identified by Tonkin & Taylor so that they remained General Rural Zone and thus would not intensify the potential for development. The specific areas were identified within Appendix C to the Rural Zone section 42A. This would leave the balance of the areas in each of those proposed new zone areas to be managed via the natural hazard provisions.

249. The Tonkin & Taylor assessment is based on their internal mapping systems and is a product of flood depth and velocity used by the Australian Emergency Management Institute Guideline 2014 to categorise the range of hazard risks (H1 to H6) within an area (see **figure 1** in **section 6.3**).

New Rural Lifestyle Zones and Settlement Zones

250. The proposed Settlement Zone and majority of the Rural Lifestyle Zone areas are predominately in areas already containing development, for example in Mandeville, Pukerau and Waikaka and the zoning more or less reflects the existing pattern of development. I support the recommendation to adjust those new zone boundaries to exclude the higher risk areas identified by Tonkin & Taylor as it results in land with a lower hazard risk within the remaining area of those zones. My assessment is therefore based on the amended spatial extent of the zone as recommended in Appendix C of the Rural Zone s42A report²⁴.ⁱ
251. The ES submission opposes new zones in flood prone areas which would preclude rather than provide for consideration of site specific hazard risk given the broad extent of the hazard overlay. The submission also relates to the opposition of NH-R2 (S85.092) above in **section 6.6.4** which seeks amendments to exclude sensitive activities from being established on flood prone land as a permitted activity and requiring resource consent for extensions to existing development in unprotected areas. This also relates to the ES request for an objective and policy directing subdivision be avoided in unprotected areas.
252. However, the Tonkin & Taylor assessment (**Attachment 1, Appendix C**) advises that hazard risk is manageable within the identified settlement areas of Waikaka, Mandeville, Pukerau and Gore (subject to the recommended adjustments to the zone boundaries) and can be mitigated through minimum FFL. This recognises hazard risk can vary within a flood prone area. Therefore, I do not support preventing zone changes for these areas based on the expert advice, as this would preclude the ability to even consider hazard risks and whether they can be appropriately mitigated which runs against the risk based approach and the recognition within policy NH.5 of the RPS to consider mitigation where avoidance is impractical. Instead, I have recommended amendments to NH-R2 in **section 6.6.4** which would support this approach by removing the permitted activity setting for new buildings and providing a consent pathway as a restricted discretionary activity to consider the hazard risk for these zones and whether mitigation would be appropriate.
253. In the case of the new Rural Lifestyle Zone proposed on the northern edge of the Matura township, the potential hazard risk was identified as high (H5 and H6) by Tonkin & Taylor (**Attachment 1, Appendix C**) and therefore mitigation measures would be very limited with

²⁴ Appendix C - Recommended Zoning Changes - 42A – Rural Chapters

Tonkin & Taylor recommending avoidance of this area for the new RLZ. The Rural Zone s42A report recommended amending the zone to General Rural, which I support based on the advice from Tonkin & Taylor.

254. That recommendation remains the same following a review of the recent ES flood model by Tonkin & Taylor (**Attachment 4, Appendix C**) who advise that the flood hazard ranges H3 to H5 which is slightly lower but still may be unsafe for all people, vehicles and buildings may be vulnerable to structural damage. While Tonkin & Taylor advise there are some areas of low risk (H1 and H2) these are marginal with the majority of the area in the higher hazard risk category. Therefore, due to the relatively high hazard across the majority of the area and being located downstream of a significant stopbank, I support the original recommendation to rezone this area to General Rural Zone.
255. Based on the advice of Tonkin & Taylor I recommend an effects based approach balancing the broad 'significant risk' of the unprotected floodplain against the ability to assess mitigation options based on the site specific hazard risk. Therefore, I recommend the new RLZ and SETZ zones can be included subject to the amended boundaries. The amended rule framework in **section 6.6.4** will support this approach addressing the relative hazard risk by requiring a consenting pathway where new buildings are proposed for sensitive activities.
256. The recommended amendments to the new RLZ and SETZ zone boundaries are illustrated below in **figures 2 – 4**.

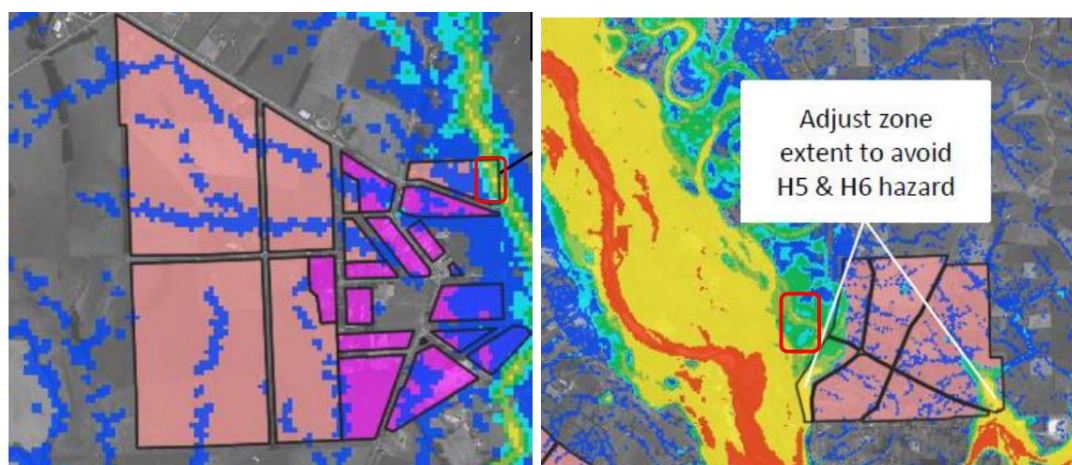


Figure 2: Indicative adjusted boundaries for the Rural Lifestyle Zone in Waikaka (left) and Gore (right). **Source:** Tonkin & Taylor, **Attachment 1, Appendix C**.

257. The assessment of flood risk in Mandeville by Tonkin & Taylor (**Attachment 1, Appendix C**) identified flood hazard risk within the proposed zones (RLZ and SETZ) are generally lower to mid-range (H1 to H3) in which raised floor levels could potentially address, but that some areas around the periphery nearer the stream are high risk (yellow) where raising ground levels may be feasible to mitigate the risk. The subject yellow (H5) area is within the Settlement Zone and includes the Mandeville Aviation and Rail Precinct (PREC8).
258. The purpose of PREC8 is primarily to enable historic vintage aviation and rail activities with commercial activities and industrial activities being the main permitted activities. While residential activities are not permitted, conference facilities and associated visitor

accommodation to events are permitted although limited by the standards. Based on Tonkin & Taylors advice and the underlying provisions for PREC8 which limit sensitive activities locating within the precinct, I recommend the boundary of the SETZ zone would not need amending as sensitive activities are not the primary purpose for this precinct and where proposed the feasibility of mitigation would be assessed via the consenting pathway, noting the existing parcels are sufficiently large to provide options outside the high hazard area.

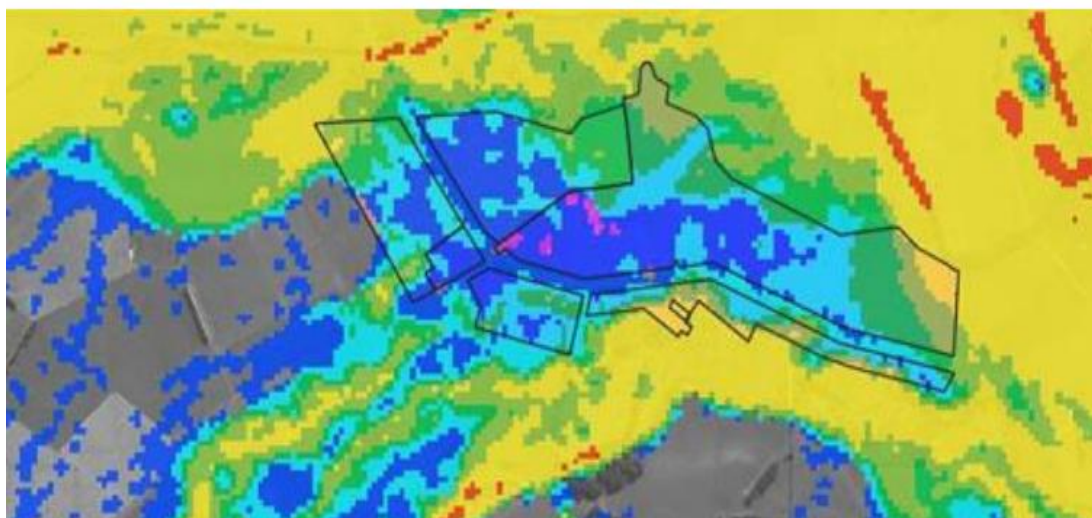


Figure 3: Mandeville SETZ and RLZ zones with flood hazard category from Tonkin & Taylor (Attachment 1, Appendix C).

259. Tonkin & Taylor advise raising building floor levels and/or ground levels could be feasible within areas outside the channel and adjacent floodplain in Pukerau. This includes amending the proposed Settlement Zone extents crossing the stream channel and adjacent floodplain to avoid the channel and to allow a corridor for future flood mitigation. The s42A for the Rural Zone noted that this area already contains existing development and so in line with RPS Policy NH.4 it is not practicable for the area of significant risk be avoided and recommended that the Natural Hazards chapter include provisions for management of development in this area.

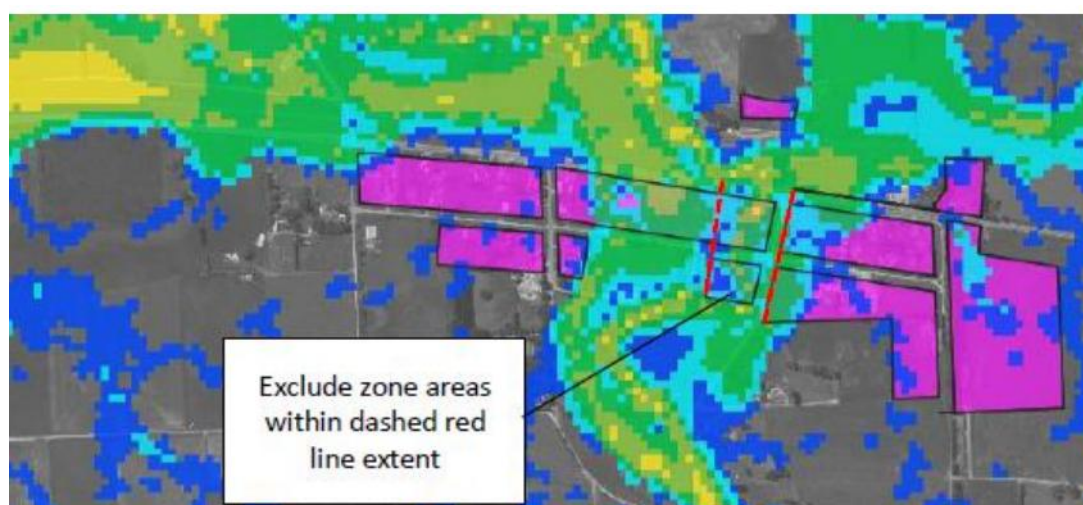


Figure 4: Pukerau areas proposed by Tonkin & Taylor to be zoned General Rural (Attachment 1, Appendix C).

260. The recommended amendments in **section 6.6.4** would address this situation, which recognise the varying levels of hazard risk and provide for extensions to existing sensitive development within the amended area which should be amended to General Rural Zone in line with Tonkin & Taylor advice and the recommendations of the s42A report for the Rural Zone. New buildings for sensitive development within the SETZ would be restricted discretionary to address mitigation, while extensions would be permitted subject to minimum floor levels. As such, I support the recommended amendment to the SETZ boundary shown in **figure 4**.

New General Industrial Zone

261. In regard to the new industrial zones at South Gore and McNab, I note the section 42A report²⁵ for the industrial zones (Hearing Stream 4) assessed submissions from ES seeking similar amendments to the provisions of the General Industrial and Light Industrial zones to add performance standards and criteria regarding minimum floor levels against all applicable rules and standards within each of the zone chapters and in addition a new policy to address hazard risk. The assessment of that submission did not support duplicating natural hazard provisions individually throughout the zone chapter provisions. I agree with that position and support the recommendation.
262. In response to the ES submission, Council engaged Tonkin & Taylor to provide expert advice on the likely hazard risks to the identified new zone areas (**Attachment 2, Appendix C**). These new zone areas are also located within the Actual and Potential Inundation area and are considered 'unprotected' in terms of the RPS.
263. Tonkin & Taylor have undertaken a review of the ES flood model for Mataura River and provided updated comments in relation to the South Gore and McNabb industrial zone areas based on the updated flood hazard information (**Attachment 4, Appendix C**). The updated advice acknowledges the ES model shows flood hazard risk in South Gore/Charlton area as lower than originally assessed by Tonkin & Taylor, with category H1 to H3 risk levels (**Figure 5**).
264. Tonkin & Taylor previously identified an area that may not be feasible to mitigate the risk. However, it is now advised the lower flood depths in this area better represent the railway embankment topography preventing flood water flowing from the Mataura River across the state highway so that it is expected to be feasible to mitigate flooding for the proposed industrial zone by raising ground or floor levels.

²⁵ General Industrial and Light Industrial Zones and South Gore Development Area (DEV1)

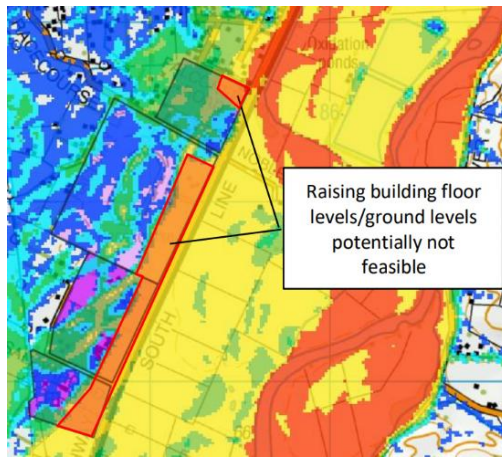


Figure 5: The hazard areas identified by Tonkin & Taylor (**Attachment 2, Appendix C**) in 2024 have now been revised to a lower hazard category of H1 to H3.

265. The proposed amendments to NH-R2 (**section 6.6.4**) distinguish non-sensitive activities, such as industrial activities, where located within flood prone areas, and identify new buildings as a restricted discretionary activity requiring a minimum finished floor level above a 0.5% AEP event and to be positioned outside the stream channel. Proposals that don't comply are identified as non-complying activities. Based on the revised category provided by Tonkin & Taylor and the recommended amendments to the rule framework, the areas in **figure 5** no longer need to be excluded.
266. Tonkin & Taylor also advise that their initial advice (**Attachment 2, Appendix C**) to amend the extent of the GIZ for the McNabb area remains unchanged. This is despite the ES model showing a reduced hazard risk (H1 to H4) on the river side boundaries of this zone. This is due to the geomorphic floodplain along the east, south and western sides of the proposed zone where an increase in flow (caused by climate change or revised flow estimates), could result in a significant increase in hazard. Based on this advice I recommend the boundaries of the GIZ zone be amended to General Rural in line with the area identified by Tonkin & Taylor and as illustrated in **figure 6**.

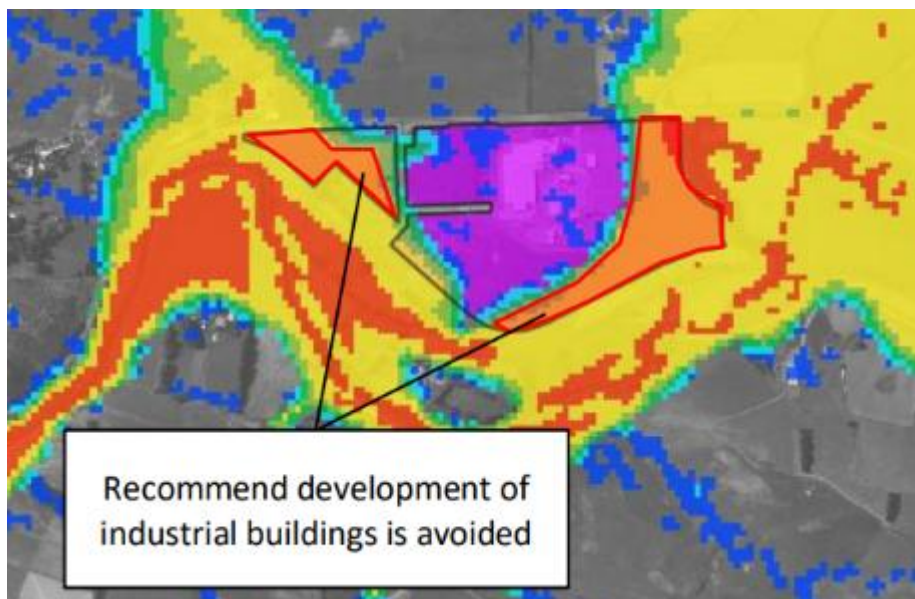


Figure 6: McNabb areas identified by Tonkin & Taylor (**Attachment 2, Appendix C**) as high hazard risk areas.

New Maori Purpose Zone and Flood Hazard Overlays

267. The PDP includes the new Maori Purpose Zone (MPZ). The purpose of the MPZ is to provide a range of activities which includes enabling further residential development including marae complexes or papakainga. There are four the locations within the district as shown in **figure 7** (below). One is within the Gore Stopbank Protection area while the other three are within the Actual and Potential Inundation area. Tonkin & Taylor have reviewed the hazard risk in relation to the new zone locations (**Attachment 6, Appendix C**).
268. Tonkin & Taylor advise that the flood hazard risk within the McNabb MPZ ranges between H1 to H4 but that it is plausible that raising floor levels or ground levels could provide mitigation for flooding within the zone. For the South Gore MPZ, Tonkin & Taylor advise the area is within the ES model and the flood hazard would be H3 across the site but raising floor levels or ground levels could mitigate the risk.
269. For the Charlton Road MPZ, Tonkin & Taylor advise it is outside the ES flood model but based on T&T flood modelling the site could be inundated from the Charlton Stream up to 0.5m deep in a 1% AEP event representing a low hazard risk. This could be mitigated by raising floor levels.



Figure 7: New Maori Purpose Zones locations.

270. For Mataura South MPZ, Tonkin & Taylor advise this is within the ES flood model area indicating it could be subject to flooding. However, the general area in which the zone is located is surrounded by flooding on all sides by either the main Mataura River channel (to the east) and flooding caused by overtopping of the stopbanks upstream (to the west). Egress/ingress to the zone may be difficult during a flood event if the upstream Mataura River stopbanks overtop. Therefore, egress during a flood event should be considered.
271. Based on the advice by Tonkin & Taylor, all the sites are prone to flooding but at a low or moderate level that could feasibly be addressed through mitigation measures. Any sensitive activities within these zones would be subject to the amended provisions requiring minimum finished floor levels and consideration of access during flood events within both the Actual and Potential Inundation overlay and the Stopbank Protection area. This is consistent with the approach to other sensitive activities within the overlays.

Recommendation

272. The changes I have recommended to the policy framework (NH-O3, NH-P2 and NH-P3) and rules (NH-R2 and new additional provisions) seek to balance the competing issues of new zones and exposure to hazard risk and will provide consenting pathways for subdivision and development subject to appropriate mitigation.
273. Accordingly, I recommend rejecting in part the ES submission requesting the prevention of the new Rural Lifestyle and Settlement zones, with the exception of the Rural Lifestyle Zone to the north of Mataura which should be zoned General Rural Zone due to the hazard risk. I also recommend amendments to the zone boundaries identified within this assessment based on expert advice. The amendments for the Rural Lifestyle Zone and Settlement Zone are the same as attached to the section 42A report for the Rural Zone (Hearing Stream 5) as Appendix C – Recommended Zoning Changes. The recommended amendments to the industrial zones within this report are attached as **Appendix D**.

6.7 Chapter Overview Submissions

6.7.1 Matters raised by submitters – Overview Section

Support

274. Alliance (S121.044) and Silver Fern Farms (S40.035) support the overview section of the natural hazards chapter and seek it is retained as notified.

Non-Liveable Farm Buildings

275. Kevin Robertson (S115.066), Rural Ratepayers Group (S143.077), Alistair & Bernadette Hunt (S148.078), Ronald Crispin (S60.068), John Baynes (S68.186) and Federated Farmers (S126.065) all support in part the overview section subject to an amendment which would clarify ‘non-liveable farm ancillary buildings’ are enabled as permitted activities within natural hazard areas.
276. The submitters all share the same request for the clarification which is based on the risk being clearly communicated to the landowners. The submissions state this will ensure that the

landowner is fully informed when deciding to locate ancillary buildings that have a functional need in flood hazard areas. A further submission by Hamish Weir (FS5.18) was received in support.

Require a Precautionary Approach

277. ES (S85.084) raise the following three issues in relation to the overview section which are based on taking a precautionary approach to natural hazard provisions:

- a. Oppose any new zone changes or provisions within existing zones which have potential to intensify land use change within a flood inundation area; and
- b. Recommend the identified deficiencies identified within the GNS report²⁶ be addressed and resolved within the PDP; and
- c. The chapter overview should recognise there are some existing flood protection works within the district but acknowledge that the design standard has limits and climate change are likely to exceed the flood protection and a precautionary approach should be taken.

278. The above issues also relate to a separate submission point by ES (S85.311) opposing any new zone changes from the current ODP which have potential to intensify land use change and development within a flood inundation area. Similarly, the ES submission (S85.097) requests a new policy to establish management criteria for new subdivision and development where there is existing flood protection.

Assessment

279. The support from Alliance and Silver Fern Farms is acknowledged and accepted.

Non-Liveable Farm Buildings

280. The submissions regarding the status of non-liveable farm buildings is directly related to the request for a new permitted rule by the same submitters to enable unoccupied farm buildings within natural hazard areas. I have assessed the request for the new rule within section 6.7 (additional provisions) of this report. Notwithstanding that recommendation, I do not consider it necessary to amend the overview section to specifically address farm buildings and the relevant activity status provided for by the rules.

281. The purpose of the overview section is to outline the general scope and key issues relevant to the topic chapter. Inserting clarification regarding how a rule applies to a very specific activity (i.e. farm buildings) is a level of unnecessary detail and out of keeping with the purpose and format of the overview section.

²⁶ Kelly SD, Saunders WSA. 2020. Southland Regional Natural Hazard Provision Review. Lower Hutt (NZ): GNS Science. 60p. Consultancy Report 2020/21.

282. Furthermore, it could create confusion as the rule contains specific standards in order to qualify as a permitted activity. Plan users need to review the rule together with the relevant standards to ensure the activity status is correctly applied, otherwise the application of the rule could be misinterpreted if only reading a statement from the overview section.
283. For the above reasons I reject the request to amend the overview section to clarify the farm building provision activity status.

Require a Precautionary Approach

284. ES request the overview section recognise the extent of existing flood protection works are limited and that stop banks do not provide 100% protection from flood inundation. ES advise the February 2020 flood met the maximum design capacity for the Maitara River through Gore and Maitara and future floods are expected to be larger so that protection will diminish over time. Accordingly, stop banks should not provide an “automatic green light” for further land use change and development and a precautionary approach should be taken.
285. Recently released flood modelling by ES illustrates this concern with the model predicting overtopping of the stop bank during a 1% AEP (1 in 100 year) flood event which confirms the flood bank is below design standard. Tonkin & Taylor have reviewed the modelling report and advised the hazard risk is credible so that provisions should address these ‘protected’ areas. I have assessed those matters in further detail later within this report but for the purposes of the overview section I agree that including reference to the reliance on flood protection also brings with it an inherent risk. Providing this inclusion is also consistent with the non-regulatory methods encouraged by policy NH-P8 to inform the community of flood risks should stop banks fail.
286. I recommend the following wording be inserted into the overview section:

“Flood protection measures such as stop banks built and maintained by the Regional Council help protect the community within the Maitara River floodplain. However, stop banks have design limitations and cannot provide absolute protection. Future storm events are expected to increase in intensity and scale which will test the extent of flood protection. Retreating from the hazard is not an immediate solution for existing communities so planning for subdivision, use and development that recognises the residual risk within these areas is necessary to reduce the adverse effects on people and property.”

287. I acknowledge the issues raised by ES in relation to opposing new zone changes or provisions that enable further development within an identified inundation area. However, I have addressed these issues later within this report where they relate to the relevant policies and rules. ES have made submissions against the relevant provisions and accordingly the issues are better addressed within those sections, which include (but are not limited to):
- a. the assessment of ‘significant risk’ within objective NH-O3;
 - b. avoiding and managing hazard risk within policies NH-P2 and NH-P3; and
 - c. the provisions managing subdivision, use and development within all three hazard overlay areas within the rule framework, i.e., NH-R2.

288. ES request the provisions resolve gaps identified within the GNS report. The report evaluated the appropriateness of the regions operative natural hazard provisions against best practice indicators²⁷. That is addressed separately within the section 6.7 (additional provisions) of this report.

Recommendation

289. I recommend, for the reasons given above, adding the following paragraph to the overview section immediately under the three bullet points:

“Flood protection measures such as stop banks built and maintained by the Regional Council help protect the community within the Mataura River floodplain. However, stop banks have design limitations and cannot provide absolute protection. Future storm events are expected to increase in intensity and scale which will test the extent of flood protection. Retreating from the hazard is not an immediate solution for existing communities so planning for subdivision, use and development that recognises the residual risk within these areas is necessary to reduce the adverse effects on people and property.”

290. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

The following evaluates the recommendation to amend the overview section under section 32AA of the RMA. While the overview section is non-regulatory the assessment is provided nonetheless for completeness.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner. The inclusion of the paragraph is an effective and efficient method of highlighting the residual effects associated with reliance on stop bank protections consistent with policy NH-P8 and will provide further clarity to plan users for the policy and rule framework that applies in relation to the stop bank protection area.

Costs and benefits

The benefits of the proposal are that the PDP context is understood in a consistent manner. There are no apparent costs with the proposed amendment.

Risk of acting or not acting

There is the potential for uncertainty as to why the chapter includes provisions managing the stop bank protection area if the proposed amendment is not made.

²⁷ Kelly SD, Saunders WSA. 2020. Southland Regional Natural Hazard Provision Review. Lower Hutt (NZ): GNS Science. 60p. Consultancy Report 2020/21.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the Objective of the act than the notified version of the PDP.

6.8 Additional Provisions

6.8.1 Matters raised by submitters – Non-Liveable Farm Buildings

291. Kevin Robertson (S115.070), Rural Ratepayers Group (S143.081), Alistair & Bernadette Hunt (S148.082), Ronald Crispin (S60.072), John Baynes (S68.190) and Federated Farmers (S126.069) all seek the addition of a new rule to permit unoccupied farm buildings in natural hazard areas. This relates to the request by the same submitters to amend the overview section to clarify that 'non-liveable farm ancillary buildings' are enabled as permitted activities within natural hazard areas.
292. The submissions state that unoccupied farm buildings in natural hazard areas have a lower risk than occupied buildings. The reason provided within the submissions for amending the overview section further state the amendment would be suitable on the basis it has been clearly communicated to the landowners along with the associated risks of doing so to ensure that the landowner is fully informed when deciding to locate ancillary buildings that have a functional need in flood hazard areas. A further submission by Hamish Weir (FS5.29) was received in support, seeking the addition of a new rule be allowed.

Assessment

293. The request for unoccupied farm buildings to be permitted within natural hazard areas state the reason for allowing them is that they have a functional need and that non-liveable buildings have a lower risk than occupied buildings.
294. I agree non-habitable buildings represent a reduced threat to life. This is consistent with the Building Act which ranks the importance level of buildings based on the risk to life and economic cost should the building fail. Buildings with a low level of importance are identified as small non-habitable buildings such as sheds, barns and minor storage buildings. Failure of these level 1 buildings are less likely to result in significant consequences because they are not designed for human habitation. However, buildings can also have an impact on flood water displacement and if located near flood protection works or other buildings including dwellings then they can increase the adverse effects of the hazard, depending on the design and location. These potential adverse effects also need to be considered.
295. For context, buildings for primary production are permitted within the General Rural Zone (GRUZ) up to a maximum floor area of 3,000m². There are approximately 1400 parcels of land within the GRUZ that are either partially or fully within the Actual and Potential Inundation hazard area. Depending on the size and location, a building permitted up to 3,000m² within the hazard area could have potentially significant adverse effects.
296. Accordingly, I have sought advice from Tonkin & Taylor (**Attachment 2, Appendix C**) who advise constructing buildings of any size within a floodplain can potentially increase flood risks by

obstructing overland flow paths or displacing floodwater volume resulting in an increase in flood hazards. Generally, the greater the cross-sectional area of a building relative to the floodplain's width, the more significant the expected impact. A small building in a large floodplain is likely to have minimal impact.

297. Therefore, if new non-habitable rural buildings are to be considered as a permitted activity, then Tonkin & Taylor recommend the following restrictions:

- a. New buildings of any size should be located at least 10 meters away from a flood protection asset or hydraulic control structure (e.g. pumpstation, floodbank/stopbank, bridge, weir). *Reasoning: Constructing a building near a flood protection asset or hydraulic structure has the potential to compromise the structural integrity of the structure, resulting in failure and increased flooding for surrounding properties.*
- b. New buildings of any size should be located at least 20 meters away from existing dwellings. *Reasoning: Constructing a building near a dwelling has the potential to alter overland flow paths, resulting in increased flooding at the dwelling.*
- c. Maximum building area should be no more than 500m². *Reasoning: Constructing larger buildings has increasing potential to obstruct overland flow paths and displace flood water, resulting in increased flooding for surrounding properties. Buildings of small size are likely to have minimal effects in most cases. The maximum area of 500m² is based on our experience undertaking flood impact assessments and takes into consideration the low population and infrastructure within the district's rural zones and the typical floodplain widths expected within the area.*

298. In terms of setbacks, the Southland Flood Control and Drainage Management Bylaw 2020 requires all structures and buildings maintain a minimum 7.5m setback from flood control works. Accordingly, the recommendation to provide a 10m setback would not conflict with the bylaw requirements and ensure building and structures did not obstruct the operation of the flood plain.

299. Similarly, the limited building area of 500m² as recommended by Mr Brunton would still provide for sufficient accessory buildings such as barns and storage for primary production purposes while avoiding the potential adverse effects of larger buildings otherwise permitted in the rural zone which could adversely affect the floodplain. A review of applications submitted over the last five years to GDC, shows a low number of applications for non-habitable farm buildings, which comprised a range of uses including storage or wintering sheds.

300. Therefore, I accept Mr Brunton's advice and consider it appropriate to require the three identified restrictions as standards for the permitted rule. In addition, the standards should also require the building is for non-habitable use. The standards would therefore address the concerns for impact on the floodplain and potential offsite adverse effects while providing a reasonable degree of permitted development as requested by the submitters. Construction of buildings greater than 500m² could be considered as a restricted discretionary application to consider any potential adverse effects based on the design and location.

301. The rule would apply within the General Rural Zone and read;

Rule NH-R2: Construction of an accessory building used for Primary Production within areas subject to Actual and Potential Inundation

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.**

302. I recommend activities that do not meet the identified permitted activity standards above be treated as a Restricted Discretionary Activity, with the matters of discretion addressing the risk to people and property, how the design would mitigate the hazard risk and how effects on existing flood protection would be avoided or appropriately mitigated.

Recommendation

303. I recommend, for the reasons provided above, that a new Permitted Activity rule be inserted as follows:

<u>NH-R2 Construction of an accessory building used for Primary Production within areas subject to Actual and Potential Inundation</u>		
<u>General Rural Zone</u>	<u>Activity status: Permitted</u>	<u>Activity status where compliance is not achieved:</u>
	<u>Where:</u> <u>1. The building is for a non-habitable use; and</u> <u>2. Is no greater than 500m² in floor area; and</u> <u>3. Maintains a minimum 20m setback from any residential building; and</u> <u>4. Maintains a minimum setback of 10m from any flood protection asset or hydraulic control structure.</u>	<u>Restricted Discretionary</u> <u>Matters of discretion:</u> <u>1. The risk to people and property is not increased from flooding, including from the displacement of flood waters; and</u> <u>2. The design incorporates suitable methods to mitigate the hazard risk to an acceptable level; and</u> <u>3. The extent to which existing flood protection assets and structures would be adverse affected.</u>

304. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

305. The following evaluates the recommendation to add a new rule under section 32AA of the RMA.

Effectiveness and efficiency

306. The proposed addition of a permitted rule consistent with technical expert advice will result in an efficient and effective approach to the provisions by supporting primary production activities within the General Rural Zone and appropriately addressing potential effects consistent with the risk based policy approach, which recognises and provides for development that is less sensitive to hazard risk.

307. The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner and provide clearer direction to plan users.

Costs and benefits

308. The benefits of the additional permitted rule will be the support of primary production activities within the General Rural Zone while avoiding adverse impacts on the function of the floodplain or community flood protection structures. It will be clearer to plan users what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. There are no apparent costs with the proposal.

Risk of acting or not acting

309. The potential risk of not acting is the lack of clarity to plan users on the status of non-habitable buildings and whether they are permitted within flood hazard overlays given the permitted underlying zone provisions, which would not be efficient or effective.

Conclusion as to the most appropriate option

310. The proposed amendment is considered to be a more appropriate way to achieve the Objective of the Act than the notified version of the PDP.

6.8.2 Matters raised by submitters – Wildfire Risk

311. FENZ (S124.021) support in part the natural hazards chapter insofar that the district plan adopts a risk based approach to flood management and considers the impacts of wildfire. FENZ have sought an amendment through the addition of two new policies that specifically address wildfire. S124.022 seeks the insertion of a new policy (as “NH-P9”) as follows:

“In areas assessed or identified as being potentially subject to elevated fire risk, ensure that an appropriate design and layout, including a buffer area or setback, is provided for new subdivision and development, and the following matters are considered: (a) Access for emergency service vehicles, (b) Provision of and access to emergency firefighting water supply (c) Separation and management of vegetation (with regard to slope, aspect, management regimes and use of less flammable vegetation), and (d) The design and materials of any buildings.”

312. FENZ also seek the addition of a new policy addressing wildfire as “NH-P10” as follows:

“Manage wildfire risk by making provision for water supplies and access to buildings for firefighting and appropriate buffers are maintained between new building platforms and forest and bush areas.”

Assessment

313. FENZ seek addition of two new policies to manage fire risk. Specific wording is proposed for the policies addressing design and layout of new subdivision and development. The policies would require a buffer or setback in areas of elevated fire risk and include consideration of access for emergency vehicles, provision of emergency firefighting water supply, management of vegetation and design and materials of buildings.
314. I note that the standards TRANS-S4 and TRANS-S5 specifically address firefighting vehicle access width and vehicle crossing design within the Transport chapter, which was heard in Hearing Stream 5. FENZ submitted in support of both TRANS-S4 and TRANS-S5 which meet the minimum width and access design requirements to accommodate emergency vehicles. In addition, FENZ also sought an amendment to TRANS-S9 regarding the maximum gradient of private accessways which was accepted. Accordingly, access for emergency vehicles is already appropriately addressed within the PDP.
315. The Council’s Subdivision and Land Development Bylaw (2019) guides subdivision, land use and development. The Bylaw is based on NZS 4404:2010 Land Development and Subdivision Infrastructure and provides requirements for firefighting water supply in accordance with SNZ PAS 4509:2008. The bylaw includes Amendment 1 (2021) specifically addressing firefighting provisions for dwellings in rural areas without access to high pressure water supply. The bylaw requires minimum onsite water storage reserve be maintained for fire fighting in accordance with SNZ4509:2008. This also include access requirements. As such, this request is already addressed through the Subdivision and Land Development Bylaw.
316. The request for management of vegetation and buffer setbacks is not further clarified or the areas of elevated risk identified on the hazard maps. However, I note FENZ submitted on ECO-R1 supporting the permitted removal of vegetation up to 1.5m in width for the purpose of firebreaks. FENZ also have specific powers under s62 the Fire and Emergency NZ Act 2017 to require the creation and maintenance of firebreaks on private land to manage fire risk. In addition, FENZ also publish guidance for rural communities recommending methods to reduce wildfire risk²⁸ including through building design²⁹.
317. Therefore, the request by FENZ for two additional policies is rejected on the basis the existing wildfire measures identified above can sufficiently address the risk. Furthermore, the wildfire risk areas have not been identified. As such, I do not consider additional policies within the natural hazard chapter would be necessary.

²⁸ Get Fire Safe at the Interface. FENZ, January 2024.

²⁹ Wildfire Safer Housing Guide: Safer Building Design. FENZ, August 2022 (updated August 2024).

Recommendation

318. For the reasons above I recommend rejecting the request by FENZ for additional wildfire policies.
319. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.8.3 Matters raised by submitters – Permitted Rail Network

320. KiwiRail (S132.049) seek an additional rule that provides for protection of the rail network as a Permitted Activity in relation to defences against water. KiwiRail note rules NH-R3, NH-R4 and NH-R5 place limitations on KiwiRail protecting critical infrastructure and request amendments to those rules or alternatively creation of a new rule to provide clarity.

Assessment

321. I reject the request to add a new rule specifically providing for protection works undertaken by KiwiRail. As a Requiring Authority, KiwiRail benefit from a designation that already excludes the district plan provisions from applying where those works are for the purpose of the designation. If the scale of those works extends beyond the footprint of the designation then given the high risk location within the Maitai River channel, it would be appropriate for a consent application to consider the scope and scale of those works and how any actual and potential adverse effects would be addressed.
322. Rule NH-R3 (now NH-R7) is not proposed to be amended. However, Rule NH-R4 (now NH-R8) and NH-R5 (now NH-R9) are subject to other submissions regarding the relationship of infrastructure activities within areas subject to natural hazards. I note KiwiRail has made similar submissions against those provisions. The assessment of those submissions is considered in more detail separately within this report. As such, I consider it more appropriate to address the KiwiRail submission together with the other infrastructure related submissions and therefore reject the request for a new rule specific to KiwiRail.

Recommendation

323. For the reasons above I recommend rejecting the request by KiwiRail for an additional rule.
324. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.8.4 Matters raised by submitters – Telecommunication Infrastructure Exemption

325. Chorus NZ (S35.039), Spark NZ (S154.039), One NZ (S32.039) Fortysouth (S33.039) and Connexa (S37.039) all seek a specific exemption for telecommunication infrastructure from having to comply with the provisions within the natural hazard chapter on the basis the activities are regulated under the NESTF.

Assessment

326. Activities regulated under the NESTF 2016 are exempt from having to comply with the natural hazard provisions in accordance with Regulation 57. The regulation states a “territorial authority cannot make a natural hazard rule that applies to a regulated activity”. Regulated activities are defined within the NESTF and include telecommunication cabinets, antennas (on poles or buildings), small cell units and telecommunication lines.
327. The submitters also refer to the NESTF user guide (section 6.11) which confirms this approach, advising the practice is to apply resilience requirements to essential infrastructure networks and lifeline utilities under the Civil Defence Emergency Act 2002. The submitters seek a note be added to clarify the exemption. I accept the request and consider it appropriate to provide for the exemption in accordance with the NESTF regulations.

Recommendation

328. I recommend for the reasons provided above that a new note be added under the existing two notes in the chapter as follows:

Note 3 Telecommunication Infrastructure

Telecommunication infrastructure is a regulated activity under the NESTF and is exempt from complying with the provisions in this chapter.

329. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

The following evaluates the recommendation to add a new rule under section 32AA of the RMA.

Effectiveness and efficiency

The proposed exemption note will improve efficiency and effectiveness of the PDP by removing uncertainty of how the provisions relate to telecommunication activities and any inconsistency with the relevant higher order documents.

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner and provide clearer direction to plan users.

Costs and benefits

It will be clearer to plan users what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. There are no apparent costs with the proposal.

Risk of acting or not acting

The potential risk of not acting is the lack of clarity to plan users on the status of regulated activities under s57 of the NESTF and whether the provisions also apply, which would not be efficient or effective.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the Objective of the Act than the notified version of the PDP.

6.8.5 GNS Report

- 330. ES (S85.084) request the PDP natural hazard provisions resolve gaps identified within the GNS report³⁰, which evaluated the appropriateness of the regions operative natural hazard provisions (ODP) against best practice indicators. The report acknowledges the Gore ODP was made operative in 2006 and highlights the limited extent of regulation for natural hazards.
- 331. Further submissions from Hamish Weir (FS5.19) and Kainga Ora (FS28.031) oppose the submission request.
- 332. The GNS report identified 22 individual indicators across nine categories comprising the planning framework, maps, monitoring and evaluation, roles and responsibilities, Civil Defence and Emergency Management (CDEM) Act 2002 requirements, information base, uncertainty, cumulative and cascading hazards and definition of risk. The indicators range from specific matters such as defining 'risk' through consideration of how policies and rules are linked within the chapter framework. Of the 20 indicators identified as relevant (two were excluded), the assessment found 14 indicators were not implemented with 5 indicators partially implemented. Only one best practice indicator was considered implemented, which was to "include information requirements of applicants" identified under Rule 4A.9.2 and chapter 8.12.

Assessment

- 333. The ES request does not specify which indicators or how they should be incorporated into the provisions of the PDP. As such, a summary of the categories addressing the 'planning framework' and 'maps' are considered the most relevant and are considered against the PDP chapter below.
- 334. A total of eight indicators under the 'Planning framework' category identified four as not implemented and four as partially implemented within the ODP. The main issues are summarised in **table 1** below:

³⁰ Kelly SD, Saunders WSA. 2020. Southland Regional Natural Hazard Provision Review. Lower Hutt (NZ): GNS Science. 60p. Consultancy Report 2020/21.

'Planning Framework' Indicator Issues	PDP Natural Hazard Chapter status
• A focus on “awareness” of natural hazards instead of using directive policies to provide certainty and clarity. • The focus on awareness meant there was no clear link between policies and rules which also used less-directive language such as ‘promote’ and ‘encourage’ instead of directive terms like ‘avoid’. • Rules do not link with the hazard maps. There is no rule to manage the actual and potential inundation area, relying on a policy directive instead. • There is only one rule within the natural hazard chapter and one activity status instead of using three or more statuses to provide a meaningful range of control. • The subdivision provisions duplicate the natural hazard chapter provisions. • The implementation methods do not reference the hazards maps. • Clarification is not provided why hazards other than flooding are not addressed.	• The policy framework uses direct language to provide certainty and clarity, including ‘avoid’ and management criteria within the policies. ‘Encourage’ is used for non-regulatory directions only. • Clear link established between policies and rules. Alignment in table 2 below illustrates the policy and rule linkages. • Rules and policies directly link with the identified hazard overlays. • There are eight rules ranging across four different activities statuses distinguishing different activities (sensitive) against the different hazard risk overlays. • The majority of natural hazard provisions are located in the chapter and follows the National Planning Standards requirements. • The hazard maps are directly referenced within rules. District Plans are no longer required to include methods. • The overview section clarifies liquefaction is addressed by the building act.

Table 1: Summary of key issues identified within the GNS review of the Gore District Council’s Operative District Plan.

335. The alignment of the core policies and rules managing development in the overlays is summarised in **table 2** below:

Objective	Policy	Policy Direction	Overlay area	Rule	Activity Status
NH-O2	NH-P2	Manage	Stop Bank Protection	NH-R3 NH-R5 Zone rules	PER to RDIS RDIS to NCA PER
NH-O3	NH-P3	Avoid, unless	Actual & Potential Inundation	NH-R3 NH-R6	PER to RDIS RDIS to NCA
NH-O3	NH-P9	Avoid	Mataura River Floodway	NH-R4	NCA
NH-O4	NH-P4	Avoid, unless	Mataura River Floodway	NH-R8 NH-R9	NCA
NH-O4	NH-P6	Avoid, unless	All overlays	INFR-R9	DIS

Table 2: Summary of the core policies and rules related to the hazard overlays.

336. A review of the chapter following the close of submissions also highlighted some unintended issues within the PDP framework, including;

- No policy link for rules NH-R1 and NH-R3 (now NH-R7);
- No rules to implement policy NH-P5;

- No rules to manage flood prone activities within the stop bank protection area.

337. Where possible, these identified issues have been considered within the scope of the submissions and resolved, such as the lack of regulation within the stop bank protection area. However, the two other linkage issues have fallen outside the scope of submissions.

338. The GNS report identified both indicators under the 'Maps' category as 'not implemented' by the ODP:

'Maps' Indicator Issues	PDP Natural Hazard Chapter status
• Hazard maps are broad areas that do not distinguish risk. • Uncertainty within mapped areas is not acknowledged.	• The PDP uses the same hazards maps as the ODP as updated mapping was not available at the time of notification. Uncertainty addressed through the planning framework provisions instead.

339. The hazard mapping does not distinguish different levels of risk as updated hazard mapping was not available at the time of notification. Instead, the natural hazard chapter applies the policy direction of the RPS which distinguishes between areas with significant risk (unprotected areas that have flooded previously) and protected areas and applies a policy approach consistent with the policies NH.5 and NH.6.

340. The rules implement this by distinguishing sensitive activities within the rule framework and using different activity statuses to assess mitigation. To address uncertainty within the hazard overlays, a precautionary approach is taken requiring a consenting pathway to assess mitigation primarily through raised floor levels based on modelled flood events. Established settlements benefiting from flood protection have a lower activity status while unprotected areas (predominantly rural zones) have a higher activity status with policies providing clear direction that sensitive activities must avoid hazard risk.

341. High risk areas such as the Mataura Floodway have a clear direction to be avoided, and the associated rule implements a starting status of non-complying. This forms the basis of a risk based approach until such time as updated mapping can be completed to identify the different risk areas. The timing for such could be aligned with the release of the NPS-NHD which will in turn trigger a requirement to update the RPS.

Recommendation

342. For the above reasons, I do not recommend any changes.

343. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.9 Infrastructure Related Provisions

6.9.1 Matters raised by submitters – Objective NH-O4

344. NZTA (S112.057), KiwiRail (S132.057) and Transpower (S101.041) support the objective in part, subject to amending the reference to ‘critical infrastructure’ as regionally significant infrastructure is not defined in the proposed district plan. Transpower further states that it is not always possible for infrastructure to be located outside hazard risk areas and as such requests reference to the circumstances where avoidance is not practicable, with amended wording to read;

~~Regionally significant~~ Critical infrastructure is located outside hazard risk areas except where there is an operational need or functional need for its location where practicable.

345. A further submission from Contact (FS24.026) supports the relief sought by the Transpower submission on the basis the term regionally significant infrastructure is not defined, and that infrastructure sometimes has an operational need or functional need to locate within hazard areas.
346. ES (S85.086) oppose the objective in part, requesting clarification as to whether the provision is more restrictive or permissive than the RPS directions. ES states the RPS requires critical infrastructure to be located outside of natural hazard areas.
347. The further submissions by Hamish Weir (FS5.21) and Yrless (FS21.067) oppose the ES submission on the basis it is not practicable for critical lifelines and infrastructure to always avoid hazard prone areas.

Assessment

348. Policy NH.5 of the RPS makes specific reference to critical infrastructure and states the placement in areas at significant risk from natural hazards should be avoided, unless there is no reasonable alternative, in which case critical infrastructure must be designed to maintain as far as practicable its integrity and function during natural hazards.
349. The ES submission seeks clarification on alignment of NH-O4 with the RPS while also applying a more restrictive interpretation of the NH.5 policy, by stating it requires “critical infrastructure to be located outside of natural hazard areas”. However, the RPS policy direction does not require absolute avoidance. In fact, it includes express acknowledgement that critical infrastructure cannot always avoid locating within significant risk areas and in such circumstances the design should be undertaken to maintain its integrity and function. This is further acknowledged within section 8.4 of the RPS, where the methods to achieve the policies confirm both regional council and territorial authorities will “...avoid, to the extent possible...” locating critical infrastructure in hazard areas. I therefore consider objective NH.O4 to be aligned with the RPS direction by including acknowledgement that it is not always practicable to avoid natural hazard areas. I recommend the ES submission is rejected for these reasons.
350. “Regionally significant infrastructure” is not defined within the PDP and therefore its replacement with “critical infrastructure” (which is defined) would improve the clarity and

understanding of the provision and would also be consistent with the terminology used elsewhere within the PDP as well as consistent with the RPS terminology which uses 'critical infrastructure'. Accordingly, I recommend the KiwiRail submission be accepted.

351. The requested amendment by Transpower to delete "~~where practicable~~" and instead include "...except where there is an operational need or functional need for its location" would improve clarity and interpretation through use of terms that are defined within the PDP and which in turn are also consistent with the National Planning Standards definitions. Furthermore, the terms 'functional need' and 'operational need' are also used throughout the Infrastructure chapter, thereby improving plan wide consistency within the PDP.

Recommendation

352. I recommend, for the reasons given above, that NH-O4 is amended as follows:

~~Regionally Significant~~ **Critical** infrastructure is located outside natural hazard risk areas ~~where practicable~~ except where there is an operational need or functional need for its location.

353. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

354. The following evaluates the recommendation to amend NH-O4 under section 32AA of the RMA.
355. The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner, by using clearly defined terms included within the PDP and which also directly align with the National Planning Standards. The amendment removes a degree of ambiguity by using the defined terms and consolidates the terminology used within the wider plan.
356. The benefits of the proposal are that it is clear what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. The amended objective also improves alignment to the related provisions.
357. There is the potential for inefficiencies if the proposed amendment is not made.
358. The proposed amendment is considered to be a more appropriate way to achieve the purpose of the Act than the notified version of the PDP.

6.9.2 Matters raised by submitters – Policy NH-P6

359. NZTA (S112.060) supports policy NH-P6 and seeks it is retained as notified.
360. Transpower support in part policy NH-P6 subject to specified amendments to improve clarity and consistency in relation to managing infrastructure within natural hazard risk areas. This addresses the following concerns:
- a. There is a need to identify the hazard areas and recognise there is often a functional or operational need. Imposing a test of "no reasonable alternative" is unnecessary and confusing and should be deleted.

- b. Clause 2 is unnecessary as it mirrors s60 requirements of the CDEM Act. If retained, it should be amended to use consistent wording regarding lifeline utilities.
 - c. The policy direction to “avoid” goes beyond the direction of s6 of the RMA and therefore ‘mitigation’ should also be included to address the effects of critical infrastructure.
361. Contact Energy (FS24.027, FS24.030 and FS24.050) support the Transpower submission points stating the relief sought would provide greater clarity and recognition of services that have a functional need or operational need to locate within hazard areas.
362. SDC (S146.025) support in part policy NH-P6 but seek modification of the policy to include specific levels of risk within the district. The SDC submission does not specify how the policy would be amended to achieve this.
363. Hokonui Rūnanga Inc (S139.054) support in part policy NH-P6 subject to an amendment to clarify the particular effects of concern to mana whenua. The amendment would read:
- “Avoid the placement of critical infrastructure in areas at risk from natural hazards, unless:
3. any significant adverse effects on people, ~~cultural values~~, and property will be avoided and effects on mauri, wahi tapu, and access to and use of mahinga kai can be avoided, remedied or off-set.”
364. ES (S85.091) support in part policy NH-P6 but seek alignment with NH-O4 to provide consistency of terminology as ES state ‘critical infrastructure’ is not defined in the draft district plan.

Assessment

365. The submission by NZTA (S112.060) seeking policy NH-P6 be retained as notified is acknowledged and accepted subject to amendments required to address relief sought in other submissions.
366. The request by Transpower seeks the following specific amendments to Policy NH-P6 to improve clarity and consistency in relation to managing infrastructure within natural hazard risk areas:
- NH-P6** Avoid the placement of *critical infrastructure* in identified and mapped areas subject to natural hazards ~~areas at risk from natural hazards~~, unless:
- 1. there is ~~no reasonable alternative due to the~~ an operational ~~need~~ or functional need for the location; and
 - 2. it will be designed to ~~maintain its integrity and~~ function to the fullest possible extent, even though this may be at a reduced level, during and after a *natural hazard* event, or can be readily re-instated after a *natural hazard* event; and
 - 3. any significant adverse *effects* on people, cultural values, and property will be avoided or mitigated to the extent practicable.
367. The request to delete the wording “at risk from natural hazards” and inserting “identified and mapped areas subject to natural hazards” is a clearer reference to the identified hazard overlays

as mapped within the district plan and therefore removes ambiguity for plan users. I recommend this amendment is accepted.

368. Regarding the requested amendment to clause 1. I note that both “functional need” and “operational need” are defined terms within the PDP; both of which are the same as defined within the National Planning Standards. The definition for “functional need” means “the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment”. Similarly, the definition for “operational need” also recognises that there are relevant “technical, logistical or operational characteristics or constraints”.
369. Together these defined terms address the matter of ‘reasonable alternative’ so that the removal does not undermine the intent of the clause. Further, the amendment would retain consistency with the policy direction of the NPSET which recognises the technical and operational requirements of the network. Accordingly, I recommend accepting the amendment to delete “no reasonable alternative”.
370. The requested amendment to clause 2 relates to the CDEM Act 2002 requirement on utility providers. The amended wording proposed by Transpower aligns with section 60(a) regarding duties of lifeline utilities during emergencies. I recommend accepting the proposed wording to clause 2 to ensure infrastructure resilience is considered given the importance of lifeline utilities to communities following a natural hazard event. Furthermore, if clause 2 is to align with s60(a) of the CDEM Act, then I recommend the following amendment to ensure the intent of clause 2 and resilience of the lifeline utility is achieved: “... ~~or~~ and can be readily re-instated after a *natural hazard* event”. This also maintains consistency with the RPS policy NH.5 direction which does not include an ‘or reinstatement’ option.
371. Transpower request an amendment to clause 3 to also include ‘mitigation’. The submission states that requiring ‘avoidance’ of effects goes beyond the s6 direction of the RMA to manage significant risks and is not supported by any justification in the s32 report.
372. Section 6(h) of the RMA requires the management of significant risks from natural hazards as a matter of national importance and therefore does not state simply ‘avoid’. While I note Policy 4 of the NPSET 2008 requires any adverse effects to be avoided, remedied or mitigated, that only applies to transmission activities, whereas “critical infrastructure” as defined within the PDP includes a wider group of activities including transport networks, three waters service infrastructure and telecommunications.
373. As such, I consider Policy NH.7 of the RPS particularly relevant as it addresses works that may affect other land. The policy states “avoid, where practical, or mitigate the potential for activities to have adverse off-site natural hazard effects on other land”. Therefore, I agree that mitigation should also be an available consideration for clause 3 which is consistent with the RPS direction. I therefore accept the amendment as sought by Transpower.
374. The request by SDC does not specify how the specific levels of risk would be incorporated into policy NH-P6. Accordingly, SDC may wish to further clarify this further including how the policy direction would differ in relation to those different risk areas. Notwithstanding this, the accepted amendment to reference the identified and mapped natural hazard areas clarifies it is

the identified hazard overlays. Given this policy addresses critical infrastructure only and the approach is the same for each area which is consistent with the RPS then I reject the SDC submission.

375. The submission by Hokonui Rūnanga Inc (S139.054) seeks amendments to clarify the effects of particular concern to mana whenua. I have sought advice from the author of the Mana Whenua s42A report, Ms Courtney Bennett, on the proposed amendment. Ms Bennett advises the relief is welcomed and recommends the following refined version:

"Avoid the placement of critical infrastructure in areas at risk from natural hazards, unless: ...

3. any significant adverse effects on people, ~~cultural values, and~~ property ~~will be avoided, mauri, any wahi tapu, or the ability to practice mahinga kai activities can be avoided, remedied or off-set."~~

376. I note Ms Bennett has refined the wording, yet it still retains the same intent as that sought by the submission. I also note that the submission, like the Transpower submission, seeks consideration of effects to be "remedied or off-set" in addition to "avoid". The term "off-set" is more commonly used in relation to 'biodiversity off-setting' and the ECO provisions having been derived from the Effects Management Hierarchy. Given the identified list also includes people and property then I consider it more appropriate to use the standard wording from the purpose of the RMA at s5(2)(c) "avoiding, remedying, or mitigating...". This is established wording commonly used and understood within district plans and in case law. Together this amendment would still provide the relief sought by both submitters.

377. The submission by ES requests alignment with NH-O4 by using "regionally significant infrastructure" as 'critical infrastructure' is not defined in the PDP. I reject this request as critical infrastructure is defined within the PDP and is used consistently throughout the natural hazard chapter. Furthermore, NH-O4 is recommended to be amended to 'critical infrastructure' which will achieve consistent terminology.

Recommendation

378. I recommend, for the reasons given above, that policy NH-P6 is amended as follows:

NH-P6 Avoid the placement of *critical infrastructure* in identified and mapped areas subject to natural hazards ~~areas at risk from natural hazards~~, unless:

1. there is ~~no reasonable alternative due to the~~ an operational need or *functional need* for the location; and

2. it will be designed to ~~maintain its integrity and~~ function to the fullest possible extent, even though this may be at a reduced level, during and after a *natural hazard* event, and ~~or~~ can be readily re-instated after a *natural hazard* event; and

3. any significant adverse effects on people, ~~cultural values, and~~ property ~~will be avoided, mauri, any wahi tapu, or the ability to practice mahinga kai activities can be avoided, remedied or mitigated."~~

379. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

The following evaluates the recommendation to amend policy NH-P6 under section 32AA of the RMA.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner. The amended policy improves alignment with the high order policy direction of the RPS, removing ambiguity regarding which hazard areas are applicable while retaining the underlying purpose of resilient infrastructure.

Costs and benefits

The benefits of the proposal are that it is clear what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. There are no apparent costs with the proposal.

Risk of acting or not acting

There is the potential for confusion if the proposed amendment is not made as the wording of the objective did not fully align with the RPS or with the relevant legislation for lifeline utilities.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the purpose of the Act than the notified version of the PDP.

6.9.3 Matters raised by submitters – Rules NH-R4 (now NH-R8) and NH-R5 (now NH-R9)

380. Transpower (S101.043) opposes the inclusion of critical infrastructure within rule NH-R4 on the basis it does not give effect to the NPSET in relation to the national grid. Transpower also states it is inconsistent with the RPS and policy NH-P6 and therefore requests the reference to critical infrastructure be removed as it is better addressed under INFR-R9 within the infrastructure chapter. In addition, the submission also requests specifically excluding critical infrastructure from clause 1(a) to ensure it is clear buildings and structures do not include critical infrastructure.
381. For similar reasons, Transpower (S101.044) also oppose rule NH-R5 and state it is unclear whether the rule is intended to regulate infrastructure activities. However, assuming it is intended to capture infrastructure activities then Transpower consider any reference to infrastructure should be removed and transferred to rule INFR-R9 within the infrastructure chapter to manage activities. This is due to the national grid having an operational need and functional need to locate on the riverside of a stop bank as a form of linear infrastructure.

382. KiwiRail (S132.047 and S132.048) oppose both rules NH-R4 and NH-R5 and seek a specific exclusion from the rule applying to the rail network on the grounds it imposes limitations for protecting rail infrastructure over the Mataura River.
383. ES (S85.094 and S85.095) support in part rule NH-R4 and NH-R5 requesting it be retained but amended to also include afforestation and earthworks activities which can affect the Mataura River Floodway. Hamish Weir (FS5.27) supports in part ES submission (S85.094) on rule NH-R4 stating the floodplain should be protected from obstructions but not a blanket ban on earthworks. Further submissions from CFMA (FS22.046 and FS22.047) oppose both the ES submissions on the basis it would make all earthworks a Non-Complying Activity which is considered inappropriate.

Assessment

384. The request by Transpower for rules relating to infrastructure within natural hazard areas to be located within the infrastructure chapter was assessed as part of the s42A report for the Energy and Infrastructure Hearing (Hearing Stream 7). I note the report recommended accepting the request to locate these provisions within the infrastructure chapter (see paras 384 – 398, Section 42A report, Hearing Stream 7 – Energy & Infrastructure).
385. In particular, the s42A report recommended amending Rule INFR-R9 (which addresses the establishment of new infrastructure within specified areas) to address Transpower’s request to include “critical infrastructure in the Mataura River Floodway” and “land inside of the river side of a Southland Regional Council Stopbank”. These activities are identified as a discretionary activity by rule INFR-R9 within the infrastructure chapter. The activity status is reduced from non-complying to discretionary but is considered appropriate and consistent with policy NH-P6 which recognises functional needs and operational needs of infrastructure, which in turn is consistent with the RPS policy direction. On this basis the deletion of ‘critical infrastructure’ from NH-R4 and NH-R5 can be accepted.
386. Notwithstanding the above, I note that in accepting the amendment there is a gap in the application of INFR-R9 in that it does not address infrastructure within all three identified hazard overlays. Rule INFR-R9 only addresses infrastructure within the Mataura River Floodway and does not reference the Actual and Potential Inundation area, which represents a ‘significant risk’ hazard area. It also does not address infrastructure within the Stopbank Protection area. This results in an inconsistency with rule INFR-R9 not fully implementing policy NH-P6. I note Transpower requested NH-P6 be amended to ensure the identified and mapped hazard overlays were clarified which was accepted. As such, I recommend rule INFR-R9 be amended to include reference to the other hazard overlays as follows:

“(d) Is critical infrastructure in the Mataura River Floodway, Actual and Potential Inundation area or the Stopbank Protection area”

387. I also note the infrastructure chapter clarifies the scope to which provisions throughout the plan apply in relation to infrastructure activities. Note 1 states the infrastructure provisions apply in addition to the other district wide chapters but that the rules and standards in the zone chapters do not apply to infrastructure (unless expressly identified in the infrastructure chapter).

388. Accordingly, the provisions within the natural hazard chapter apply in addition to the infrastructure provisions. Therefore, to avoid confusion it is necessary to expressly exclude 'critical infrastructure' from rules NH-R4 and NH-R5 as a consequence of it being addressed within INFR-R9. The request to specifically exempt the infrastructure references within clause 1(a) of NH-R4 and clause 1 of NH-R5 is accepted to avoid duplication with INFR-R9 and clarify the application of the two rules. However, I recommend this be addressed as an exception under the rule.
389. KiwiRail request specific exclusion from rules NH-R4 and NH-R5 on the grounds it imposes limitations on protecting critical infrastructure including the Mataura River rail bridge, as some works may fall outside the designation. However, the location of the rail bridge is within a significant hazard risk area of the Mataura River channel. As such, it would be appropriate for a resource consent application (under INFR-R9 as a discretionary activity) to assess the scope and scale of those works if they extended beyond the designation footprint and consider how any actual and potential adverse effects would be addressed.
390. Accordingly, I reject the KiwiRail request but note that non-complying rules NH-R4 and NH-R5 would no longer apply to infrastructure and instead the discretionary rule INFR-R9 would apply due to the definition of critical infrastructure including the rail network.
391. ES support rule NH-R4 and NH-R5 but request the addition of afforestation and earthworks as these can affect the performance of the floodway. The further submissions by Hamish Weir and CFMA oppose the request for earthworks to be added as this would elevate all earthworks within the floodway to a Non-Complying Activity which the submitters consider impractical and onerous.
392. I note that earthworks were addressed as part of Hearing Stream 7 which included earthwork activities within natural hazard areas. In particular, EW-R13 addresses earthworks and land disturbance within areas subject to natural hazards and manages earthworks relative to the location within the Mataura River Floodway, the Actual and Potential Inundation area and the Stop Bank Protection area. The Council's consultant flood engineers, Tonkin & Taylor, provided expert evidence as part of assessing this provision. Earthworks associated with critical infrastructure are provided for within the Mataura River Floodway as a discretionary activity but are not permitted³¹. Accordingly, earthworks have already been addressed through the previous hearing stream.
393. In relation to the request to control trees within the Mataura River Floodway. I note the Southland Flood Control and Drainage Management Bylaw 2020 (the "Bylaw") manages activities to protect the effective operation of flood control works, which includes floodways identified within the appendix of the bylaw. The bylaw states that no person, without prior authority obtained from Council, can modify or interfere with flood control works which includes planting or growing any vegetation. No vegetation can be established within 7.5m of the

³¹ Note the response of the reporting officer to Minute 27 (15 November 2024) has resulted in a recommendation to locate rule EW-R13 within the natural hazard chapter. This is addressed within section 7 of the report (Consequential and Minor Amendments).

landward side of any flood control works. The identified areas extend along the Mataura River and cover wider areas than just the Mataura River Floodway identified within the PDP.

394. Accordingly, the bylaw already controls vegetation within a greater area of the floodplain. Inserting a further regulatory control would appear to be duplication and require landowners to apply to two different authorities for the same purpose. As such I recommend rejection of the added provision regarding trees unless ES are able to clarify the provision would not result in duplication.

Recommendation

395. I recommend, for the reasons given above, that rule NH-R4 and NH-R5 are amended as follows:

NH-R48	Activities within the Mataura River Floodway
Mataura River Floodway	Activity status: Non-Complying Where: - The following activity is undertaken: (a) new <i>structures</i> or <i>building</i> ~~(b) critical Infrastructure~~ (c) <i>Sensitive Activities</i> Except: This rule does not apply to <i>Critical Infrastructure</i>.
NH-R59	Buildings or structures located on the river side of a stopbank
All Zones	Activity Status: Non-complying Where: The activity involves constructing new <i>buildings</i> or <i>structures</i>, or additions to an existing <i>building</i> or <i>structure</i> on the <i>river</i> side of a Southland Regional Council stopbank. Except: This rule does not apply to <i>Critical Infrastructure</i>.

396. I recommend, for the reasons above, that clause 1(d) of rule INFR-R9 be amended as follows:

(d) Is critical infrastructure in the Mataura River Floodway, Actual and Potential Inundation area or the Stopbank Protection area.

397. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

398. The following evaluates the recommendation to amend rules NH-R4 (now NH-R8) and NH-R5 (NH-R9) and INFR-R9 under section 32AA of the RMA.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner.

The amended provisions are effective and efficient by clearly distinguishing the infrastructure requirements from general building and structures within the various hazard risk overlay areas. By locating the provisions intended for infrastructure only within the infrastructure chapter and specifically exempting them within the natural hazard chapter improves certainty for plan users.

Rule INFR-R9 within the infrastructure chapter is the most effective manner to address these activities within the hazard areas and is consistent with policy NH-P6 which recognises functional needs and operational needs of infrastructure, which in turn is consistent with the RPS policy direction.

Costs and benefits

The benefits of the proposal are that any confusion in applying the provisions is resolved and better certainty is provided to infrastructure providers and requiring authorities when interpreting the infrastructure provisions against the broader definition of 'buildings and structures' within hazard areas. This reduces potential for unnecessary transaction costs confirming interpretation of the PDP provisions.

Risk of acting or not acting

There is the potential for confusion if the proposed amendments are not made as the provisions within INFR-R9, NH-R4 and NH-R5 could be interpreted as all being applicable, elevating infrastructure to a non-complying activity status.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the purpose of the Act than the notified version of the PDP.

6.9.4 Matters raised by submitters – Rule NH-R6

- 399. NZTA (S112.062) support NH-R6 and seek it is retained as notified.
- 400. Transpower (S101.045) opposes rule NH-R6 requesting it be deleted in its entirety. The submitter states the risk of liquefaction is not clearly articulated to justify the non-complying activity status and does not give effect to the NPSET and it is considered more stringent than the RPS policy direction and inconsistent with NH-P6 which recognises infrastructure has an operational need or functional need for its location. The submission requests rule INFR-R9 be amended to include critical infrastructure on land subject to high or very high liquefaction risk and delete NH-R6 as a consequence.
- 401. Contact Energy (S144.009) oppose the non-complying status of rule NH-R6 and seek that the rule is deleted.
- 402. ES (S85.096) support rule NH-R6 in part but seek that it is expanded to also include sensitive activities. A further submission by Hamish Weir (FS5.28) opposes the ES submission and considers the notified scope is suitable.

Assessment

403. The submission by NZTA is acknowledged and accepted subject to the relief sought by the other submissions.
404. The scope of rule NH-R6 is limited to the establishment of critical infrastructure on land subject to high or very high risk of liquefaction. These areas are identified as a layer on the PDP planning maps. There are four distinct areas of 'High' liquefaction identified in the eastern part of the Gore District, all within the General Rural Zone. There are no identified areas of 'Very High' liquefaction. Figure 1 below shows the location of the four 'High' liquefaction areas with the redlines indicating Transpower transmission lines.

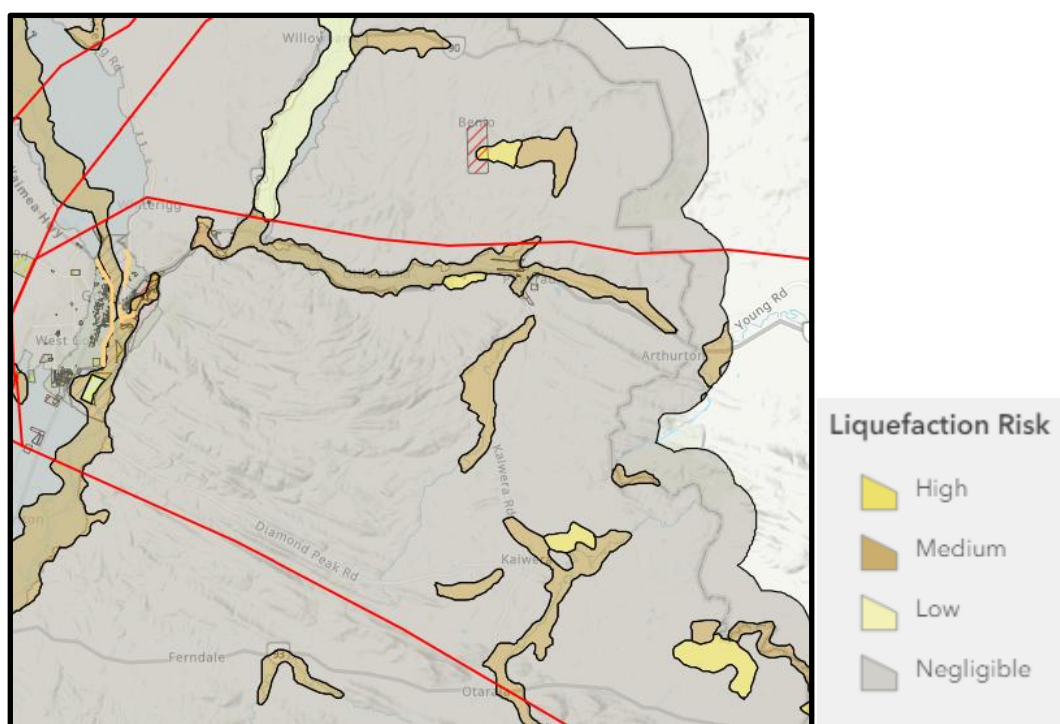


Figure 1: Extract from the Proposed District Plan Maps showing location of 'High' liquefaction areas. The red lines are Transpower transmission lines.

405. Transpower advises that liquefaction did not significantly compromise the national grid during the Christchurch earthquake and furthermore the national grid is designed to be resilient to natural hazards in any given receiving environment. I acknowledge this noting the duties on lifeline utility providers under s60(a) of the CDEM Act 2002 to ensure lifeline utilities can function both during and after an emergency. I also note that none of the transmission routes or other 'critical infrastructure' utilities are located within the identified high liquefaction areas. While the likelihood of critical infrastructure occurring in these areas is low given the limited number, location and area of the identified 'High' liquefaction sites I do still consider the risk should be appropriately managed where new infrastructure is proposed. Therefore, I agree the non-complying activity status does not align with the policy direction of NH-P6 and that it would be more appropriate to manage as a discretionary activity under rule INFR-R9 with the liquefaction maps identifying the scale of risk. The Transpower submission can therefore be accepted.
406. In regard to the request to add in sensitive activities. I note that feedback on the Draft District Plan resulted in reducing the scope of the provisions regulating building on liquefaction prone

land. This was based on concerns raised that the provisions were duplicating the building act requirements. The s32 evaluation report (pg.14) further noted changes to the New Zealand Building Code for building on liquefaction prone land came into effect in November 2021. This required specific foundation design for buildings on liquefaction prone land which are addressed through the building consent process.

407. There are three foundation options dependent on ground conditions, which essentially apply the improved standards developed in response to the Christchurch earthquakes. These standards now apply nationally. As such, the building consent process has evolved to manage the design requirement for buildings on liquefaction prone land. Therefore, it is not considered necessary to include sensitive activities. The ES submission is therefore rejected.
408. As a consequence of accepting the Transpower request, the relief sought by Contact Energy is accepted insofar as the activity status is no longer non-complying and the rule is recommended to be deleted.

Recommendation

409. I recommend, for the reasons given above, that rule NH-R6 is deleted in its entirety and rule INFR-R9 is amended to include the reference to critical infrastructure as follows:

(g) is critical infrastructure on land subject to a high or very high risk of liquefaction

410. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

The following evaluates the recommendation to delete rule NH-R6 under section 32AA of the RMA.

Effectiveness and efficiency

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner. The amendment improves efficiency by ensuring plan users can effectively access the relevant provisions within the appropriate activity chapter.

Costs and benefits

The benefits of the proposal are that it is clear what is required in terms of PDP administration, and the PDP is interpreted in a consistent manner. There are no apparent costs with the proposal given the amendment is limited to relocating a notified provision.

Risk of acting or not acting

There is the potential for inefficiencies if the proposed amendment is not made.

Conclusion as to the most appropriate option

The proposed amendment is considered to be a more appropriate way to achieve the Objective of the Act than the notified version of the PDP.

6.10 Specific Provisions

6.10.1 Matters raised by submitters – Objective NH-O1 & NH-O2

- 411. DOC (S109.043), NZTA (S112.054) and Alliance (S121.046) support objective NH-O2 as notified.
- 412. The Rural Ratepayers Group (S143.005 & S143.006) seek objective NH-O1 and NH-O2 be amended to ensure the public are aware of all risk and dangers. The submission states Council should indemnify landowners for any risk or harm that could occur to the public due to encouraging public access.

Assessment

- 413. The submission raises a concern with landowners' responsibility for public accessing private farmland due to Council empowerment.
- 414. The issue relates to legal access over private land and exposure of the landowner to health and safety requirements. This issue is outside the scope of the provisions for this chapter which addresses natural hazards and I therefore recommend the submission be rejected.

Recommendation

- 415. I recommend, for the reasons above, no changes to objective NH-O1 and NH-O2.
- 416. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.10.2 Matters raised by submitters – Policy NH-P7

- 417. Federated Farmers (S126.068), Kevin Robertson (S115.069), Rural Ratepayers (S143.080), Alistair & Bernadette Hunt (S148.081), Ronald Crispin (S60.071), John Baynes (S68.189) and DOC (S109.142) support policy NH-P7 and request it is retained as notified.
- 418. Royal Forest and Bird Society of NZ (S110.025) request policy NH-P7 be amended as follows:

“Encourage the use, maintenance and enhancement of ~~natural features and buffers such as riparian planting~~ Nature Based Solutions to manage the risks of natural hazards on people, property and the environment.”
- 419. A further submission by Federated Farmers opposes the submission seeking it is disallowed on the basis NH-P7 as notified provides a clear non-regulatory approach for plan users.

Assessment

- 420. The submission relates to the request by Forest and Bird (S110.006) to include a new definition for “nature based solutions”. That request was assessed within the s42A report for the

Infrastructure chapter within Hearing Stream 7. The recommendation was to reject the new definition as it is not considered appropriate to provide specific provision for nature-based solutions, primarily as this is a function of the Gore District Subdivision and Land Development Bylaw that sits outside the PDP, rather than a requirement of the PDP.

421. The lack of adequately defining what a 'nature based solution' is could introduce uncertainty into the policy and result in the direction of policy NH-P7 becoming less clear than in its current notified form which states "natural features and buffers such as riparian planting" to guide plan users as to the intent of the policy. Given non-regulatory policies primarily rely on education, this does not forestall the opportunity to promote other natural solutions or measures.

Recommendation

422. For the reasons provided above I recommend no changes to policy NH-P7.
423. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.10.3 Matters raised by submitters – NH-R3 (now NH-R7)

424. ES (S85.093) supports rule NH-R3 and seeks the rule is retained as notified on the grounds new flood protection works should be undertaken with detailed work and in partnerships with numerous agencies.
425. KiwiRail (S132.046) opposes in part rule NH-R3 on the basis it imposes limitations on protecting the rail network where extensions or new defences against water for bridges may fall outside the designation. As such KiwiRail express exemption of the rail network from rule NH-R3. Further submissions from Alliance Group (FS27.013) and Silver Fern Farms (FS29.039) oppose the KiwiRail submission, seeking it be disallowed as construction of new or extended defences for the rail network is most appropriately considered as a discretionary activity in part to allow consideration of possible adverse effects on neighbouring or nearby land.

Assessment

426. The KiwiRail bridge is located within a significant hazard risk area where any changes within the Mataura River Floodway could impact the existing flood defences and exacerbate the flood risk to surrounding properties. As such, I agree with the further submitters that it would be appropriate to carefully assess the scope and scale of any works where they extended beyond the designation footprint to consider the actual and potential adverse effects on the existing flood protection measures including any potential change in hazard risk to people and property within the surrounding area.
427. Accordingly, the request should be rejected.

Recommendation

428. I recommend, for the reasons given above, that no changes are made to rule NH-R3 (now NH-R7).

429. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

6.10.4 Matters raised by submitters – Policy SUB-P4

430. ES (S85.0103) oppose policy SUB-P4 and seek an amendment to expand the avoidance direction from significant risk areas so that it also directs avoidance of “medium” and “high” hazard risk areas:

Medium, high and Significant natural hazard risk is avoided and other natural hazard risk is managed and mitigated through mitigation measures such as compliance with lot density and minimum floor levels.

431. Charlton Rise Limited (S100.002) support in part policy SUB-P4 as notified and seek that “avoid” is removed from the policy as it prevents subdivision where constraints are present. The request seeks to allow potential effects to be managed. Alternatively, the use of “or” as per SUB-P5 is sought to achieve a similar outcome. How the policy would be specifically amended is not provided in the submission. However, it is considered the intent would read “Significant natural hazard risk is avoided ~~and other natural hazard risk is~~ or managed and mitigated...”
432. Hamish Weir (FS5.85), KO (FS28.038) and Clark Fortune McDonald & Associates (FS22.005) oppose the ES submission (S85.103) on the basis it is excessive and that also avoiding ‘medium and high’ natural hazard risk could be overly restrictive and potentially inconsistent with s.6 of the RMA and policy NH.4 of the SRPS. Furthermore, it would result in significant cost to the resource consent process.
433. Clark Fortune McDonald & Associates (FS22.004) support the submission by Charlton Rise Limited (S100.002) on the grounds there are situations where constraints or hazards are present but subdivision is still appropriate or necessary and provided hazards are managed the subdivision can be undertaken without increasing risk. KO (FS28.037) support in part the submission by Charlton Rise Limited (S100.002) and consider that the wording should be amended to:

“Significant natural hazard risk is avoided and other natural hazard risk is managed ~~and~~ or mitigated through mitigation measures such as compliance with lot density and minimum floor levels.”

Assessment

434. The amendment sought by ES would widen the policy direction beyond just significant risk areas, to require avoidance of subdivision within all flood hazard areas except low hazard areas. This would result in mitigation only being considered for low hazard areas, which are not identified on the flood hazard overlays or by ES within their submission. The amendment would therefore lead to uncertainty and a lack of clarity for plan users when attempting to apply the policy; especially due to the RPS only providing guidance for identifying areas at ‘significant risk’ (under the explanation for policy NH.5), and not identifying other categorised hazard areas, which are instead referred to as “areas other than those at significant risk” under policy NH.6 of the RPS.

435. Therefore, the amendment sought by ES would likely result in all flood areas being subject to the avoid direction and losing the ability to consider mitigation measures. This would be inconsistent with the policy direction of NH.5 and NH.6 of the RPS which directs avoidance for areas at significant risk and the ability for managing hazard risk in all other areas (policy NH.6).
436. It is noted the explanation under policy NH.5 states that in areas where the risk is less than significant then policy NH.6 applies and techniques such as minimum floor levels may be used. Applying the ES amendment would be inconsistent with this higher order policy and accordingly I do not support the request from ES and instead agree with the concerns raised within the further submissions FS5.83 and FS28.038. Accordingly, I recommend rejecting the amendment as sought by ES (S85.103).
437. The amendment sought by Charlton Rise Limited (S100.002) comprises two options; either the removal of the term “avoid” from the policy or the introduction of “or” as in NH-P5, to provide an ability to manage the hazard risk. KO (FS28.037) support in part the submission by offering specific wording which retains the ‘avoid’ and introduces “or”. I do not agree with the removal of “avoid” as this is consistent with policy NH.5 of the RPS.
438. The suggested wording by KO (FS28.038) is consistent with the RPS policies NH.5 and NH.6, as it directs avoidance of significant risk areas while providing for management of hazard risk in all other areas through consideration of mitigation measures such as requiring minimum floor levels. I agree in part with the further submission by Clark Fortune McDonald & Associates (FS.22.004) that there are situations where hazards can be appropriately managed through mitigation.

Recommendation

439. For the reasons given above, I recommend rejecting the submission by ES (S85.0103) and accepting the submission by Charlton Rise Limited (S100.002) subject to the wording proposed by KO within their further submission (FS28.037) so that policy SUB-P4 reads:

Significant natural hazard risk is avoided and other natural hazard risk is managed ~~and~~ or mitigated through mitigation measures such as compliance with lot density and minimum floor levels.

440. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

Section 32AA Evaluation

441. The following evaluates the recommendation to amend under section 32AA of the RMA.

The proposal will enable the Council to effectively administer the PDP in a clear and consistent manner, by achieving consistency with higher order documents such as the relevant policy direction within the RPS.

The benefits of the proposal are that it is clear what is required in terms of PDP administration, and the relevant subdivision provisions align with the policy direction.

There is the potential for inefficiencies if the proposed amendment is not made.

The proposed amendment is considered to be a more appropriate way to achieve the purpose of the Act than the notified version of the PDP.

6.10.5 Matters raised by submitters – Policy NH-P5

- 442. Alliance (S121.049), MOE (S125.025) and Silver Fern Farms (S40.038) support policy NH-P5 as notified, noting that it is appropriate for policy to contemplate a full range of effects management measures.
- 443. ES (S85.090) oppose policy NH-P5 in part requesting medium liquefaction risk be added to the policy as part of taking a precautionary approach.
- 444. A further submission by Hamish Weir (FS5.25) opposed the submission by ES stating that the majority of concrete dwelling foundations are now 'raft' designs that specifically consider earthquake movement and can be re-levelled at a relatively low cost. Adding the request will increase insurance cost and require unnecessary reporting for resource consents.

Assessment

- 445. The risk of liquefaction is addressed through the building consent process through specific foundation design requirements for buildings on liquefaction prone land. The foundation design requirements were updated within the New Zealand Building Code in November 2021. There are three foundation options dependent on the ground conditions but essentially they apply the improved standards developed in response to the Christchurch earthquakes. These standards now apply nationally.
- 446. As such, the building consent process has evolved to regulate the design requirement for buildings on liquefaction prone land. Therefore, it is not considered necessary to add this requirement to policy NH-P5.
- 447. The support of policy NH-P5 by Alliance, MOE and Silver Fern Farms is acknowledged and accepted while the ES submission is rejected.

Recommendation

- 448. I recommend, for the reasons given above, that no changes are made to policy NH-P5.
- 449. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix B**.

7. Consequential and Minor Amendments

- 450. Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors.

451. The addition of new provisions will require consequential renumbering of policies and rules to maintain consistency. The renumbering of the provisions is included in **Appendix A**.
452. Clause 10(2)b of the RMA allows decisions on the PDP to include matters relating to consequential alterations to the PDP which are necessary, relevant or arising from submissions. The following are recommended consequential amendments to the PDP based on previous Section 42A report recommendations.

INFR-R9

453. As outlined within section 6.9 of this report, a consequential amendment is recommended in response to the Transpower submission (s101.043) who seek critical infrastructure to be managed under INFRA-R9 rather than within the natural hazard chapter. This submission was addressed and accepted within the s42A Infrastructure report. However, an unintended gap resulted where the management of critical infrastructure was then not provided for within the Actual and Potential Inundation overlay. A full assessment is provided in section 6.9 of this report with a consequential amendment to the Infrastructure (INFRA) Chapter, attached within **Appendix A - Infrastructure**, with specific reference to INFRA-R9:
454. I recommend, for the reasons above, that clause 1(d) of rule INFR-R9 be amended as follows:

(d) Is critical infrastructure in the Maitava River Floodway, Actual and Potential Inundation area or the Stopbank Protection area.

HASZ-P1

455. As outlined within section 6.5 of this report, a consequential amendment is recommended in response to the submission by Alliance Group Limited (S121.032) who seek changes to HASZ-P1 to resolve the conflict between requiring hazardous facilities to be located within industrial zones whilst also avoiding mapped inundation areas. A full assessment is provided in section 6.5 of this report with a consequential amendment to the Hazardous Substances (HAZS) chapter, attached within **Appendix A - Hazardous Substances**, specifically HASZ-P1:
456. I recommend, for the reasons above, that HASZ-P1 is amended as follows:

Manage adverse effects from new significant hazardous facilities locating in the General Industrial Zone or Rural Industry Precinct by:

.....

3. Locating new significant hazardous facilities outside the Maitava River Floodway ~~and all mapped district inundation areas to avoid the effects of natural hazards and protect the environment~~; and;
4. Locating and designing new significant hazardous facilities to manage or avoid the risks and adverse effects from natural hazards within the Actual and Potential Inundation Area or Stop Bank Protection Area; and ...

EW-R13

457. The Earthworks provisions were addressed within Hearing Stream 7. The hearing panel issued Minute 27³² inviting a response from the reporting officers on where the cross-over earthworks provisions should be located, when having regard to the PS mandatory directions. The right of reply³³ in response to this minute recommended that EW-R13 should be moved across to the NH Chapter to provide a consistent plan structure approach to earthworks rules within overlays. The relevant provision was assessed within the s42A report and only the relocation of the provision is proposed here so that no further assessment is required.
458. Based on this recommendation rule EW-R13 is recommended to be incorporated into the natural hazard chapter as a consequential amendment as outlined below:

NH-R4	Earthworks and land disturbance within areas subject to Natural Hazards (Flooding)	
<u>Areas subject to Natural Hazards (Flooding)</u>	<u>Activity status: Permitted</u> <u>Where:</u> <u>The work is not undertaken within the Mataura River Floodway; and</u> <u>The work is not undertaken on the river side of a stopbank.</u> <u>The work is within the Actual or Potential Inundation area and:</u> <u>The activity is undertaken within the mapped Stopbank Protection Area; or</u> <u>The bulk and scale does not exceed:</u> <u>Cut depth or fill height (measured vertically) does not exceed of 0.56 meters;</u> <u>Fill height (measured vertically) of 0.3 metres;</u> <u>Fill volume above ground level of 10 m³ per site; and</u> <u>Cumulative volume of filling and excavation of 25 m³ per site/ 10 years.</u>	<u>Activity status where compliance is not achieved with:</u> <u>EW-R13(1) or EW-R13(2):</u> <u>Non-complying</u> <u>EW-R13(3):</u> <u>Restricted Discretionary</u> <u>Matters of discretion:</u> <u>The potential to create new or exacerbate existing natural hazards, impact natural drainage patterns, redirect overland flow paths or flood flows.</u> <u>Effects on water quality.</u> <u>Sediment and erosion effects and management.</u> <u>Impacts on Ngāi Tahu cultural values, including those listed in MW-2.3.</u>

³² Minute 27 – Earthworks Energy Infrastructure - 15 November 2024

³³ Right of Reply Earthworks, Energy and Infrastructure Chapters - 13 January 2024

8. Conclusions and Closing Recommendation

8.1 Conclusions

459. This report has provided an assessment of submissions received on the Natural Hazard Chapter and associated definitions and mapping of the PDP.
460. The submissions seek a range of amendments to the Natural Hazard Chapter although there is general support for the provisions and approach adopted within the Chapter. Overall, there is clear support for the objectives and policies which take a risk-based approach to managing activities within identified natural hazard areas, providing the opportunity to consider whether activities can appropriately mitigate the risks.
461. Notwithstanding this, submitters did raise concerns with the policy direction and consistency with the RPS and how provisions should apply to critical infrastructure. Other submissions challenged the degree of regulation necessary to manage hazard risk.
462. I consider that the submissions on the Natural Hazards Chapter and associated definitions and mapping assessed in this report be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations in this report including Appendix B.
463. Overall, I recommend that the provisions are amended as shown in Appendix A for the reasons set out in this report. The main changes recommended include:
- Amendments to objective NH-O3 to align with the RPS policy direction.
 - Amendments to objective NH-O4 to clarify the intended outcomes through use of defined terminology.
 - Amendments to policy NH-P2 to refer to the Stop Bank Protection area and clarify the policy direction.
 - Amendments to policy NH-P3 to refer to the Actual and Potential Inundation area and distinguish the level of risk to activities.
 - Add a new policy directing avoidance of subdivision, use and development within the Mataura River Floodway area.
 - Amendments to policy NH-P6 to improve alignment with the higher order direction and matters of concern to mana whenua.

- Amendments to policy SUB-P4 to align with the RPS policy direction.
- Add a new rule to permit construction of non-habitable accessory farm buildings within the Actual and Potential Inundation area.
- Amendments to rule NH-R2 to permit extensions to buildings within the Actual and Potential Inundation area and the Stop Bank Protection area.
- Add a new rule for construction of new buildings for sensitive activities within the Stop Bank Protection area.
- Add a new rule for construction of new buildings within the Actual and Potential Inundation area that distinguishes sensitive activities.
- Amendments to rules NH-R4 and NH-R5 to exclude reference to critical infrastructure.
- Remove rule NH-R6 and transfer the requirement to rule INFR-R9.
- Amendments to rule INFR-R9 to include reference to Actual and Potential Inundation area and the Stop Bank Protection area.
- Amend HASZ-P1 regarding Significant Hazardous Facilities within flood prone areas.
- Add a note exempting the natural hazard provisions from applying to regulated activities under the NESTF to align with higher order directions.

464. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the PDP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken throughout this report.

8.2 Closing Recommendation

465. The Hearing Panel accept, accept in part, or reject all submissions (and associated further submissions) as outlined in Appendix B of this report.

Signed:

Name and Title	Signature	Date
Brett Osborne Consultant Planner		7 February 2025
