

BEFORE THE HEARINGS PANEL FOR THE GORE DISTRICT COUNCIL

UNDER

the Resource Management Act 1991

IN THE MATTER

of Hearing of Submissions and Further
Submissions on the Proposed Gore
District Plan

**STATEMENT OF EVIDENCE OF BEN WILSON FOR CLARK FORTUNE
MCDONALD & ASSOCIATES
SUBMITTER S99 & FURTHER SUBMITTER FS22**

HEARING STREAM 4

Dated: 5th August 2024



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CONTENTS

Qualifications and experience	1
Code of conduct of expert witnesses	1
Scope of Evidence	2
S42A Part 6.6.3 – General – Management of Residential Land	3
S42A Part 6.6.4 – Natural Hazards	3
S42A Part 6.6.5 – Appendix 2 Height in Relation to Boundary	4
S42A Part 6.7.3 – Zoning – Large Lot Residential zone boundaries	5
S42A Part 6.7.4 – Water Supply Treatment Facility Buffer Area	5
S42A GRZ-S1	6
S42A GRZ-S5	7
S42A MRZ-S5	9
S42A SUB-R7 (DEV2-Gore West), SUB-S1 & SUB-S5	10

Qualifications and experience

1. My name is Benjamin Joseph Wilson. I hold a degree of Bachelor of Surveying from Otago University, I am a Licensed Cadastral Surveyor and a member of the *Survey & Spatial New Zealand* and *Consulting Surveyors of New Zealand* professional bodies.
2. I have sixteen years' experience as a surveyor and resource management practitioner, primarily in Otago and Southland. I currently manage the Gore branch of Clark Fortune McDonald & Associates Limited (**CFMA**).
3. I have lived and worked as a Surveyor in the Gore District since 2009 so I am very familiar with the landscape and locations within the Gore District and the subject site of this evidence.
4. I have been a practicing consultant involved in a wide range of subdivisions, land development projects and resource consents in the Gore District and other surrounding districts.

Code of conduct of expert witnesses

5. Whilst not a Court hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

Scope of evidence

6. In preparing this statement of evidence I have considered the following documents:
 - (a) Section 32 Evaluation Reports: Energy & Infrastructure, Subdivision, & Residential Zones.
 - (b) Section 42A Hearing Report for Hearing Stream 4: Residential Zones & Gore West Residential Development Area.
7. I have structured my evidence to correspond with the primary submission and further submission points made by CFMA as they are identified and

assessed in the s.42A report for Residential Zones & Gore West Residential Development Area.

S42A Part 6.6.3 – General – Management of Residential Land¹

FS22.072

8. Southland District Council (**SDC**) submission points (s146.076, s146.078) seek the review of zoning classification to minimise issues adapting to climate change and flood risk.²
9. Further submission point FS22.072 opposes (in part) the submission point (S146.078) from SDC as the majority of the proposed Medium Density Residential Zone (**MDR**) is a reflection of existing land use which is already at a higher residential density than the General Residential Zone (**GRZ**).
10. I remain of the view that due to the existing density of residential occupation which has established, the MDR is the most appropriate zoning irrespective of being within a floodplain.
11. I agree with the s.42A report where it states that natural hazard management is best located within the Natural Hazards Chapter.³ Any natural hazard will need to be contemplated irrespective of the Proposed District Plan (**PDP**) zoning and I find that the provisions within the Natural Hazards Chapter are sufficiently robust to ensure any hazard is avoided or at least, minimised to a tolerable level.

S42A Part 6.6.4 – Environment Southland Submissions on Natural Hazards⁴

FS22.120-127 & 129-136

12. The intention of these further submission points is accurately expressed at paragraph 137 of the s42A report.
13. In a similar vein to FS22.072 above, I agree with the s.42A report where it states:

¹ From para 116 (Page 23), s42A Report Hearing Stream 4, 22.07.24.

² At para 116 (Page 23), s42A Report Hearing Stream 4, 22.07.24.

³ At para 122 (Page 24), s42A Report Hearing Stream 4, 22.07.24.

⁴ From para 347 (Page 89), s42A Report Hearing Stream 4, 22.07.24.

- I do not consider additional policies in the Residential Zones relating to natural hazard risks are necessary.⁵
- It is unnecessary to repeat the requirements of the Natural Hazard Chapter within the Residential Zones Chapters.⁶
- That natural hazard management is best located within the Natural Hazards Chapter.⁷

14. I find that the provisions within the Natural Hazards Chapter are sufficiently robust to ensure any hazard is avoided or at least, minimised to a tolerable level irrespective of the PDP zoning.
15. Not to derogate from what I set out above, in my experience, to entirely “avoid” hazards with reinforcement by a non-complying status means fewer natural hazard experts are engaged by landowners to investigate a hazard as would be the case under “mitigation” and discretionary status. In my opinion, the more people engage with and come to understand a hazard, landowners, Councils and decision makers are better placed to make decisions in relation to that hazard.

S42A Part 6.6.5 – Appendix 2 Height in Relation to Boundary⁸

S99.045

16. The intention of this primary submission point is accurately expressed at paragraph 149 of the s42A report.
17. I agree with the s42A report⁹ where it recommends that the diagram and northern boundary recession plane angle revert back to the Operative District Plan (**ODP**) diagram. Based upon this recommendation, the intention and relief sought by submission point S99.045 is satisfied.

S42A Part 6.7.3 – Zoning – Large Lot Residential zone boundaries¹⁰

⁵ At para 138 (Page 27), s42A Report Hearing Stream 4, 22.07.24.

⁶ At para 139 (Page 27), s42A Report Hearing Stream 4, 22.07.24.

⁷ At para 140 (Page 27), s42A Report Hearing Stream 4, 22.07.24.

⁸ From para 149 (Page 30), s42A Report Hearing Stream 4, 22.07.24.

⁹ At para 152 (Page 30), s42A Report Hearing Stream 4, 22.07.24.

¹⁰ From para 221 (Page 47), s42A Report Hearing Stream 4, 22.07.24.

S99.002

18. The intention of the primary submission point is accurately expressed at paragraph 221 of the s42A report. However, this submission point was raised based upon a general observation of the PDP maps / zones and when considering the Large Lot Residential Zone (**LLRZ**) in particular, I am unable to identify any particular LLRZ boundaries where adjustment would be of specific benefit. As such, the s42A report is accepted with regards to this point.

S42A Part 6.7.4 – Water Supply Treatment Facility Buffer Area¹¹

FS22.137-150, 053 & 075

19. The submitters listed in paragraph 225 of the s42A report raised a number of concerns which are listed in paragraph 227 of the s42A report.
20. The intention of the further submission points made by CFMA support the concerns raised by the listed submitters as I believe the proposed buffer zone around the East Gore water treatment plant would have a significant impact upon residential zoned land and multiple existing dwellings and should not be introduced without consultation and approval of affected landowners.
21. I agree with the s42A report where it states:
- I consider the buffer zone is not the most effective method to protect the operation of the existing infrastructure.¹²
 - In my opinion the designations will provide sufficient protection for the infrastructure.¹³
 - The Water Supply Treatment Facility Buffer Area in East Gore and Mataura is removed from the PDP mapping, Rules GRZ-R14 and LLRZ-R11 are deleted.¹⁴

¹¹ From para 225 (Page 47), s42A Report Hearing Stream 4, 22.07.24.

¹² At para 233 (Page 50), s42A Report Hearing Stream 4, 22.07.24.

¹³ At para 234 (Page 50), s42A Report Hearing Stream 4, 22.07.24.

¹⁴ At para 235 (Page 50), s42A Report Hearing Stream 4, 22.07.24.

22. Based upon the above, the intention and relief sought by further submission points FS22.137-150, 053 & 075 is satisfied.

S42A GRZ-S1¹⁵

S99.028

23. The intention of the primary submission point is accurately expressed at paragraph 293 of the s42A report.
24. I agree with the s42A report where it states a minor non-compliance with this density standard may result in a more onerous consenting process than may be strictly appropriate.¹⁶ I also agree with the s42A report¹⁷ where it recommends a “sliding scale” in favour of the notified non-complying status for a breach to density.
25. I note here whether the wording under the non-complying component of the sliding scale should read GRZ-S1(3) not GRZ-S(3).
26. In my view, the recommended sliding scale will enable a more efficient consenting process and reduce the number of non-complying activities approved for slight and/or inconsequential breaches to density which preserves the authority of the non-complying consent process to refuse any unacceptable breaches to density and maintain District Plan integrity in this regard.
27. Charlton Rise Ltd support the standard as notified (S100.011). However, without a reason listed for this submission point nor any associated relief, I am unable to understand the nature of this submission point nor provide any formal consideration of it.
28. Based upon the above, the intention and relief sought by primary submission point is S99.028 satisfied.

¹⁵ From para 293 (Page 60), s42A Report Hearing Stream 4, 22.07.24.

¹⁶ At para 295 (Page 60), s42A Report Hearing Stream 4, 22.07.24.

¹⁷ At para 297 (Page 60), s42A Report Hearing Stream 4, 22.07.24.

S42A GRZ-S5¹⁸

S99.029 & FS22.070

29. The intention of the primary submission point is accurately expressed at paragraph 314 of the s42A report.
30. The Operative District Plan (**ODP**) provides an exemption for carports and garages located within the front yard setback. This exemption has had a part in directing the character of the built environment that has established over at least ten years.
31. The s32 evaluation report for the GRZ was not supported by any assessment nor report that identifies carports and garages that have established in the front yard represent an adverse or undesirable urban outcome or otherwise necessitating an amendment to the ODP in this regard.
32. The s42A report is now supported by an urban design assessment that considers: *Like building height, scale, character and form, a consistent setback is a fundamental building block of street character. Having a consistent setback for houses creates a 'built edge', a regular rhythm of built forms that relate to the street and provide spatial enclosure i.e. they frame the edges of the street, creating a place.*¹⁹
33. The urban design assessment considers that permitting accessory buildings in the front yard setback may erode street character, yet equally, I believe it could be considered that not enabling this option for landowners may also create a hard and consistent edge heron in a street which has to date established with a more organic edge which would appear inconsistent and out of character.
34. In my reading, the GRZ has no objectives nor policies that directly engage with "street character" or otherwise indicate a type of street character which is more desirable than another nor does it direct that a hard building edge is necessary. There is no specific outcome sought by the PDP in this regard.
35. Policy GRZ-P2 seeks to encourage infill development and the redevelopment of older housing stock that maximises the efficient use of land

¹⁸ From para 312 (Page 63), s42A Report Hearing Stream 4, 22.07.24.

¹⁹ At para 5 (Page 3), Urban Design Advice, Fiona Whyte, 12th July 2024.

in a way that is compatible with the scale and character of residential development anticipated by the zone.

36. Objective UFD-O7 seeks that urban environments recognise the local context and character of an area.
37. In my opinion, continuing with the ODP exemption for carports located within the front yard setback better achieves GRZ-P2 and UFD-O7 as it enables the most efficient use of land and remains compatible with the local context / character that has established in the existing environment.
38. I recommend that the ODP exemption is retained in the GRZ which requires the following amendment to notified GRZ-S6:

GRZ-S6	Setbacks to road boundaries
All activities	1. Any <i>building</i> or <i>structure</i> shall be setback a minimum of 3m from any <i>road boundary</i>. 2. <u>In relation to a structure or part of a structure used for the parking of vehicles, an area of at least 4.5 metres long and 2.5 metres wide shall be provided on the site and immediately in front of the vehicle entrance to that structure for the manoeuvring or standing of vehicles.</u> Except that: a) Fences are permitted within the setback b) Eaves, gutters and associated downpipes on any <i>building</i> may intrude into the setback by a maximum of 600mm. c) <u>A carport or garage, either stand alone or attached to the dwelling, (including any eaves, gutters or downpipes) may be set back a minimum of 500mm from the property boundary provided that the maximum length of the building adjacent to the property boundary does not exceed 8m.</u>

39. The addition of Standard 2 above augments any carport to not open out onto the roadside which is a concern raised in the urban design assessment. In my experience, the outcome this typically achieves is set out in an aerial photograph contained in Attachment A to my evidence.
40. In terms of section 32AA considerations, I don't believe the additional provisions set out above represent a departure from the notified framework that would be sufficient to warrant a section 32AA and the assessment made in the Evaluation Report for GRZ will suffice. However, without derogating, should the Panel agree with the merits of the additional provisions I

recommend above yet find a section 32AA is necessary: I can provide this assessment at the hearing or respectfully seek leave to provide the Panel with this section 32AA by way of a memorandum which I can file following the hearing and prior to the Panel entering into any formal deliberations.

S42A MRZ-S5²⁰

S99.030

41. The intention of the primary submission point is accurately expressed at paragraph 374 of the s42A report.
42. The intention is shared with submission point S99.029 considered above. However, I acknowledge a difference here in that MRZ-P10 seeks to avoid activities that are incompatible with the character, qualities and purpose of the Medium Density Residential zone and this provision is not included in the GRZ.
43. For the reasons set out under my assessment of S99.029, I don't believe allowing an exemption for carports in a similar fashion to the ODP exemption will result in any built outcome which could be considered as incompatible with the character or qualities of the existing environment within the MRZ.
44. In my reading of the purpose of the MRZ, it provides for higher densities of residential living than the GRZ and seeks a greater diversity of housing options for smaller households. I view this as being additional support for the ability to locate a carport in the front yard setback without the requirement, cost and inefficiency of obtaining a resource consent.
45. I recommend that the ODP exemption is provided for in the MRZ which requires the following amendment to notified MRZ-S5:

MRZ-S5	Setbacks to road boundaries
All activities	1. <i>Any building or structure</i> shall be setback a minimum of 2.5m from any <i>road boundary</i>. 2. <u>In relation to a structure or part of a structure used for the parking of vehicles, an area of at least 4.5 metres long and 2.5 metres wide shall be provided on the site and immediately in front of the vehicle entrance to that structure for the manoeuvring or standing of vehicles.</u>

²⁰ From para 374 (Page 74), s42A Report Hearing Stream 4, 22.07.24.

	Except that: a) Fences are permitted within the setback b) Eaves, gutters and associated downpipes on any <i>building</i> may intrude into the setback by a maximum of 600mm. c) <u>A carport or garage, either stand alone or attached to the dwelling, (including any eaves, gutters or downpipes) may be set back a minimum of 500mm from the property boundary provided that the maximum length of the building adjacent to the property boundary does not exceed 8m.</u>
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46. As considered under GRZ-S6 above, I don't believe the additional provisions set out above represent a departure from the notified framework that would be sufficient to warrant a section 32AA and the assessment made in the Evaluation Report for GRZ will suffice. However, without derogating, should the Panel agree with the merits of the additional provisions I recommend above yet find a section 32AA is necessary: I can provide this assessment at the hearing or respectfully seek leave to provide the Panel

S42A SUB-R7 (DEV2-Gore West), SUB-S1 & SUB-S5²¹

S99.013

47. The intention of the primary submission point is accurately expressed at paragraph 531 of the s42A report.
48. The intention is similar to the primary submission point S99.028 considered above in relation to density where the s42A report recommended a "sliding scale" approach to the density provision in favour of the notified PDP non-complying status.
49. In my opinion, adopting the "sliding scale" approach for minimum allotment size as with density would enable a more efficient consenting process and reduce the number of non-complying activities approved for slight and/or inconsequential breaches to minimum allotment sizes, which preserves the authority of the non-complying consent process to refuse any unacceptable breaches to minimum allotment size and maintain District Plan integrity in this regard.

²¹ From para 529 (Page 102), s42A Report Hearing Stream 4, 22.07.24.

50. I recommend that the “sliding scale” approach is adopted for SUB-S1:

SUB-S1	Minimum Lot Size	
All areas	1. No lots to be created by subdivision, including balance lots, shall have a net site area less than the minimum specified: (a) General Residential – 400m² (b) Medium Density Residential – 300m² (c) Large Lot Residential – 2000m² (d) Large Lot Residential Precinct 12 – 8000m² (e) Settlement – 2000m² (f) Rural Lifestyle (excluding Gore West Development Area) – 1ha (g) Rural Lifestyle Gore West Development Area - 2000m² provided the average lot size over the whole Rural Lifestyle Gore West Development Area is not less than 1 hectare (h) General Rural – 8ha Except that: (i) This rule does not apply to the Medium Density Zone or General Residential Zone where allotments each contain an existing residential unit. (ii) There is no minimum density for zones not listed above, however site size for all subdivisions is a considered under Rules SUB-R5, SUB-R6 and SUB-R7.	Activity status where compliance is not achieved with: SUB-S1(1)(c) & (g): <u>Discretionary where the minimum allotment size exceeds 1,500m² and non-complying where the minimum allotment size is less than 1,500m².</u>

51. In terms of section 32AA considerations, I have reviewed the assessment made by the s42A report²² to apply the sliding scale to density within the GRZ. In my opinion, this evaluation of the core elements of s32 would directly correspond with any evaluation for the same mechanism to be applied to minimum allotment sizes under SUB-R7. Sufficiently so, that I believe the section 32AA already provided in s42A report can be adopted to support the recommendations to SUB-R7 I set out in the table above.

Dated: 5th August 2024

Ben Wilson
Surveyor

²² At para 299 (Page 61), s42A Report Hearing Stream 4, 22.07.24.

Attachment A

