

Before the Independent Hearings Panel at Gore District Council

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing Submissions and Further submissions on the Proposed
Gore District Plan.

Statement of supplementary planning evidence of Brett Osborne on behalf of Gore District Council for Hearing Stream 11

Date: 6th March 2025

Introduction:

1. My full name is Brett Andrew Patrick Osborne. My Section 42A report sets out my qualifications and experience as an expert in planning.
2. I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's practice Note 2023, as applicable to this independent hearing panel.
3. I have prepared this statement of evidence to provide a response to expert evidence and statements presented in relation to Hearing Stream 11 – Natural Hazards. In preparing my evidence I have reviewed the statement of evidence on behalf of Gore District Council by Tim Morris - Senior Civil Engineer and Technical Director of dam and water resources engineering with Tonkin & Taylor.

Scope of Supplementary Evidence

4. My supplementary evidence considers the Statements of Evidence received by Council in relation to the NH chapter and relevant provisions. This includes the evidence of:

Environment Southland (s85)

- a. Marcus Roy (Planning)
- b. Jo Paterson (Flood Risk Management Project Manager)
- c. Matt Gardner (Water Resources Engineer)

Chorus New Zealand Limited, Connexa Limited, FortySouth Group LP, One New Zealand Group Limited and Spark New Zealand Trading Limited ("the Telecommunication companies") (s35, s37, s33, s32, s154 respectively):

- a) Tom Anderson (Planning)

Alliance Group Limited (s121 & FS27):

- a. Doyle Richardson (Planning)

KiwiRail (s132 & FS27):

- a. Louise Taylor (Planning)

Southland Province of Federated Farmers of New Zealand (s126 & FS17):

- d. Rachel Thomas (Planning)
- e. Bernadette Hunt (Federated Farmers Senior Executive)

5. I also acknowledge the submitter statements from the following:

- a) Ms Helen Dempster on behalf of the New Zealand Transport Agency (NZTA) who advises NZTA accept the recommended amendments to the chapter following their review of the section 42A report for the Natural Hazards chapter. Ms Dempster further advises that the NZTA accept the reasoning within the section 42A report where a provision has not been changed as requested by the NZTA submission.
- b) Mr Steve Tuck on behalf of Silver Fern Farms advises the submitter accepts the recommendations within the section 42A report in relation to its submissions and as such do not intend to file further evidence on the matters within the scope of the Natural Hazards chapter.
- c) Ms Rebecca Eng on behalf of Transpower confirming agreement with the recommendations of the section 42A report. Accordingly, Transpower advise they do not wish to be heard or provide further evidence in relation to their submission. Transpower have provided a table recording their position in relation to their submission points. Of relevance:
 - i. The table notes a typographical error in the amendment to policy NH-P6 which is addressed below at para 6 (a) of the identified list of corrections.
 - ii. The table suggests considering exemptions for infrastructure for rules NH-R4 and NH-R6 in order to be consistent with the recommended amendments providing exemption to NH-R8 and NH-R9. Those suggestions are addressed further below under the heading 'Transpower'.

Corrections to Section 42A report

- 6. My evidence also seeks to correct the following errors within the s42A report and associated appendices.
 - a) **Typographical error in Policy NH-P6:** Policy NH-P6 within the 'Appendix A – Recommended Amendments to the Natural Hazard chapter' as attached to the section 42A report. The strikethrough unintentionally deleted the word "in" within the first sentence. This should be corrected by retaining the word "in". This is consistent with the assessment and recommended amendment within the section 42A report.
 - b) **Matter of Discretion wording in Rule NH-R2:** The wording of the third matter of discretion (3) for Restricted Discretionary Activities as included within the s42A report is an earlier draft version. The correct version is included within Appendix A to the section 42A report. The difference is very slight, and the intended scope is the same.
 - c) **Rule NH-R3:** The version included within the body of the section 42A report (paragraph 241) is incorrectly identified as "NH-R2" when it should be identified as "NH-R3". The scope of the rule and the activity status remain the same but the wording of the three 'matters of discretion' while addressing the same matters are not the final version which was correctly included in Appendix A. In addition, the version at paragraph 241 did not include the activity status 'Non-Complying' where activities did not meet the standards.

- d) **Incorrect rule reference for rules NH-R5 and NH-R6:** These were incorrectly referenced within the section 42A report. Rule NH-R2.1 should be identified as “NH-R5” while rule NH-R2.2 should be identified as “NH-R6”. The correct references were used within the Appendix A strikethrough chapter.
- e) **Note omitted from rule NH-R5:** The advice note was omitted from the Appendix A version of NH-R5. This has been updated within the Appendix A to be consistent the other rules NH-R3 and NH-R6.

Recommendations Overview

7. Paragraphs 5 and 7 of my Section 42A report for the Natural Hazards chapter provides an overview of issues raised in submissions and the recommended changes relating to those chapters. I do not propose to repeat those here but instead focus on responding to submitters evidence and in particular matters which remain in contention.
8. In response to Environment Southland (s85) I recommend:
 - a) Not incorporating the ES model directly in the PDP due to:
 - i. Outstanding uncertainty and limitations of the model; and
 - ii. The lack of coverage over known flood prone areas.
 - b) Not incorporating the Tonkin & Taylor model to fill in the uncovered areas of the ES Model for the district due to:
 - i. Advice from Tonkin & Taylor on the uncertainty and limitations of the model as it was not developed for the purpose of the PDP; and
 - ii. The model does not assess the 0.5% AEP flood event as identified within the proposed provisions.
 - c) Rejecting the redefinition of ‘significant risk’ within the RPS as hazard category H3 or greater without undertaking a comprehensive review of the RPS.
 - d) Rejecting the identification of hazard risk categories H3 to H6 as Non-Complying activities so that mitigation can only be considered for H1 and H2 areas.
 - e) Acknowledging the support to the identified provisions within Appendix 1 of Mr Roy’s evidence and rejecting the requested amendments to the remaining identified provisions in favour of the recommendations within the s42A report.
9. In response to the Telecommunication Companies (s35, s37, s33, s32, s154) I recommend:
 - a) Accepting the requested amendment to Note 3.
10. In response to Alliance (s121) I recommend:

- a) Accepting in part the amendment sought to rule NH-R6 regarding the requirement for finished floor levels for non-sensitive buildings.
 - b) Accepting the amendment sought to policy NH-P9 to exclude critical infrastructure.
- 11. In response to KiwiRail (s132) I recommend:
 - a) Rejecting the insertion of a new rule.
 - b) Rejecting amendments to NH-R7, NH-R8 and NH-R9.
- 12. In response to Southland Province of Federated Farmers of New Zealand (s126) I recommend:
 - a) Rejecting the proposed amendment to NH-R2.
- 13. Further recommended amendments to the Natural Hazard chapter are provided in **Appendix A** to reflect the recommendations made within this evidence.

Detailed Responses to Evidence seeking changes to s42A Recommendations

- 14. In this section I focus on those provisions where there remains disagreement about what is proposed in the s42A report. Much of the evidence provided by submitters agrees with my s42A report recommendations, and for the sake of brevity I acknowledge this where appropriate.

Environment Southland

- 15. Marcus Roy has submitted further evidence on behalf of Environment Southland (“ES”) which also refers to the expert evidence of Jo Paterson and Matthew Gardner. Paragraphs 6 – 10 provide an overview of Mr Roy’s evidence which essentially focus on a request to embed the recent Environment Southland Flood Model (ES Model) into the PDP and a review of the PDP objective and policies with requested changes to give effect to the RPS. Appendix 1 to Mr Roy’s evidence comprises a list of specific PDP provisions with further comments regarding suggested changes.
- 16. I acknowledge the request to incorporate the ES model into the PDP and the further comments on alignment with the RPS policy direction, but note that the evidence does not include any proposed amendments demonstrating how this would be achieved. There are no specific amendments recommended to the provisions or how the model outputs would be linked to the regulatory provisions. While Appendix 1 to Mr Roy’s evidence does identify specific PDP provisions, the comments are formed as requested changes without specific amendments. I will address those separately in further detail below.
- 17. Conversely, the s42A report specifically proposes amendments to the PDP provisions to a) address the scope of the submissions and b) provide clear amendments to the policy and rule framework in order to demonstrate how the provisions would work, including identifying activity statuses and how they would escalate, what zones and types of activities would be captured and how the provisions would link to the spatial hazard overlays. Further, the

amendments also assess how the natural hazard chapter gives effect to the higher order policy documents (the RPS) and how referencing of the ES model could be achieved.

Hazard Mapping

18. I agree that hazard maps comprising combined depth and velocity outputs from a flood model analysing various flood AEP events and then categorised using a relative scale such as the AIDR flood hazard curve¹ (see para 57 of the s42A report), represent a far better method for identifying hazard risk than broad spatial overlays. I specifically drew attention to this within the s42A report (see paras 57, 65 - 67, 77 and 182) as part of assessing the submissions to the natural hazard provisions. However, such modelling outputs need to be complete and robust in order to be reliable.
19. Unfortunately, the ES model was not available at the time of preparing the natural hazards chapter of the PDP for notification and was not publicly available until after the release of the section 42A report for this chapter (7th February 2025). This significantly constrained the ability to incorporate the ES model into the PDP.
20. Despite the release of the ES model, there are still some practical limitations that require addressing:
 - a) The model does not cover the whole length of the Mataura River within the Gore District identified as flood prone. This means flood prone areas would not be included. To address this ES request patching in the T&T nationwide model to essentially fill the gaps. Mr Tim Morris addresses this matter within his evidence where he identifies a list of key limitations with both models² and concludes that he does not consider either of them suitable at this point to be incorporated into the PDP³. Mr Morris advises the ES model would require minimal additional input to be suitable, while the T&T model was not developed for the purposes of the PDP natural hazard chapter and would require much more work to be suitable for the PDP.
 - b) The ES model and the Tonkin & Taylor model do not include allowance for climate change as recommended by MBIE⁴.
 - c) The recommendation within the ES model states *"If the model is to be used for designing stopbank levels, setting floor levels, and district planning purposes then a range of sensitivity scenarios should be run through the model including increasing channel*

¹ Australian Institute for Disaster Resilience (AIDR) 2017, Guideline 7-3 Flood Hazard.

² Paragraph 10 of Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

³ Paragraph 15 of Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

⁴ 'Natural Hazard Provisions Guidance on complying with Sections 71 to 74 of the Building Act 2004', MBIE, October 2023.

roughness, bridge blockage and changes in inflows". Its unclear if that further modelling has been completed and peer reviewed.

- d) The ES model does not include modelled outputs for a 0.5% AEP event. The PDP provisions identify the minimum finished floor level requirements above a 0.5% AEP event which was the event level that ES requested. Until this is completed plan users would be required to obtain that information privately.
21. In my view, the current status of the ES model for the Mataura River while being a preferable form of hazard mapping, is not sufficient to be incorporated into the PDP until outstanding issues are resolved. The lack of the ES model coverage of the known flood prone areas is a significant concern. Mr Morris advises in his evidence that the Tonkin & Taylor model was not developed for the purpose of the PDP and therefore would not be appropriate to cover the rest of the area within Gore district that the ES model omits.
22. As such, the ES model would not cover all known flood affected areas and would leave a large number of properties no longer identified or addressed by the natural hazard provisions. In my view that is not an acceptable outcome, and the model should first be completed, and a comprehensive plan change designed directly around it and progressed through the appropriate Schedule 1 process.
23. Therefore, in the interim, I consider the amendments as recommended within the s42A report to form the preferred approach from a plan making perspective by applying the notified natural hazard overlays within the PDP, forming direct links to the policy and rules with those layers and distinguishing sensitive activities from non-sensitive activities while also demonstrating consistency with the relevant RPS policy directions.
24. While not directly inserting the ES model in the PDP, the recommended amendments to the rule framework do provide the ability for the ES model to be applied through the following rules to identify flood hazard levels and determine corresponding finished floor levels;
- a) NH-R3 – The additional to existing buildings for sensitive activities within areas subject to Actual and Potential Inundation and the Stopbank Protection area
 - b) NH-R5 – The construction of new buildings, including conversion of existing buildings for sensitive activities within the Stopbank Protection area
 - c) NH-R6 - The construction of new buildings, including conversion of existing buildings for sensitive activities within areas subject to Actual and Potential Inundation.
25. In my view the above approach aligns with the request within paragraph 30 & 31 of the ES legal submission which raised whether the ES model material could be referenced within the PDP to provide some trigger to members of the community and GDC planners to consider the information.

26. I acknowledge the notified hazard overlays⁵ are not modelled robust layers, but they do encompass the modelled extent by ES and cover the whole catchment identified as flood prone, while corresponding to the RPS policies regarding “significant risk” (which is based on the distinction of protected vs unprotected land). They are also hazard overlays the community are familiar with and include all known flood prone areas.
27. While I have recommended this as a preferred approach, I do so only due to the circumstances and constraints of the process and availability of modelled outputs. I strongly recommend progressing either a variation or plan change under schedule 1 of the RMA as soon as possible (once the modelling is complete) and drafting a natural hazard chapter with provisions that directly incorporate the hazard maps from the model. The drafting would not be constrained by scope and enable the full schedule 1 process to be applied. It would allow for the pending NPS-NHD as signalled by government to be released. This is expected to resolve the limitations of the RPS which is focused on significant risk based simply on whether land is protected or unprotected rather than applying a complete risk-based approach. The direct reference to hazard categories could also be incorporated.

RPS policy direction

28. I have assessed RPS policy NH.5 within the s42A report as part of the assessing the submissions. I refer to Para 132 – 135 and para 158 – 160 of the s42A for my assessment where I note 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 by flood alleviation works (such as stopbanks). The assumption is that protected areas are at less risk than those which are unprotected and therefore at ‘significant risk’.
29. I also note 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:

“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...”

30. Mr Roy’s evidence appears to interpret policy NH.5 more simply as requiring avoidance of areas of significant risk. In doing so he seeks to amend how ‘significant risk’ is defined by the RPS by shifting away from the notion of protected vs unprotected land and using hazard categories to define significant risk via the AIDR guidance. Mr Roy states category H3 to H6 should be defined as significant while categories H1 and H2 would not be considered significant. Mr Roy does not clarify whether this is based on a 1% AEP or a 0.5% AEP event when referring to hazard categories.

⁵ Actual and Potential Inundation area, Stopbank Protection area and the Mataura River Floodway.

31. While I agree in principle with the concept of moving the policy direction away from its focus based on the presence (or not) of flood protection measures, I believe this should be a far more rigorous approach and occur as part of a comprehensive review and update to the RPS. I also note the approach by Mr Roy is constrained by attempting to adapt the existing policy approach which is binary (i.e. 'significant' or 'not significant') to address a graduated risk based approach using hazard categories ranging between H1 to H6. This reduces the benefit of a graduated range by compacting it into a binary approach within an existing policy direction (NH.5 and NH.6) that cannot be altered. It is also potentially signalling a reduced focus on stop bank protection which if that is the case the community should be included in that decision making process.
32. Current best practice applies the risk-based approach which I outlined at para 64 – 65 in the s42A report and follows the MfE guidance⁶ based on the GNS risk-based approach to hazard planning⁷, which in turn also draws from the international standard for risk management⁸.
33. It is not uncommon for that approach to consider three hazard risk categories comprising low, moderate or high. The approach of three hazard categories was also proposed within the draft NPS-NHD released by central government. I outlined above, the issue with modifying the interpretation of the RPS is that only two categories are formed, which requires grouping six hazard categories into two groups in order to address the adopted RPS policies (NH.5 and NH.6).
34. The 'significant risk' categories proposed by Mr Roy comprise H3 to H6. In my view this is a very broad range and potentially sets a low threshold when it is coupled with the policy interpretation by ES, which seeks a Non-Complying status for H3 - H6 hazard risk. This status largely precludes consideration of mitigation by discouraging proposals. This may also raise natural justice issues for landowners and submitters who have not had the opportunity to consider the implications of the new hazard layers and more restrictive provisions sought by ES. Conversely, they have had the opportunity to consider the recommendations within the s42A report.
35. I also note the supporting evidence from Jo Paterson and Matt Gardner do not provide any further clarification on the appropriate hazard risk settings or which AEP event scale they should be referenced. Mr Morris in his evidence considers the approach of defining 'significant risk' as H3 or greater as somewhat simplistic due to the need to consider a range of factors⁹. I agree with Mr Morris that the settings need to be more carefully considered before being adopted and note he states that it is typically neither practical nor economically viable to mitigate flooding at H5 or H6, and it can also be difficult at H4. As such, I disagree with effectively precluding consideration of mitigation at H3 through activity status and policy direction.

⁶ MfE, 2010. Preparing for Future Flooding: A Guide for Local Government in New Zealand. Ministry for the Environment May 2010.

⁷ 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.

⁸ ISO 31000:2009 Risk Management – Principles and Guidelines

⁹ Paragraph 21 of Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

PDP Natural Hazard Framework

36. The recommended amendments to the chapter framework within the s42A report address the above issue of flood hazard risk by providing for mitigation in flood risk areas and excluding areas of H5 and H6. This is based on advice from Tonkin & Taylor and represents a comparatively less conservative approach.
37. In order to address the RPS direction as part of the ES submission opposing the policies NH-P2 and NH-P3, the notified hazard overlays were reconciled with the RPS and PDP policies. The s42A report acknowledges these are broad areas and that areas within them vary in hazard risk. The rule framework has been amended to address this by identifying sensitive activities and requiring mitigation and addressing the ability for people to safely evacuate properties. Recommendations to either exclude or amend the boundaries of zones to avoid H5 and H6 areas have been included. The assessment at para 155 – 182 of the s42A clarifies my assessment of those matters. It also identifies the three notified spatial hazard overlays (being the only hazard overlays available at the time);
- a) the Actual and Potential Inundation Area,
 - b) the Stopbank Protection area, and
 - c) the Mataura River Floodway.
38. These correlate to the RPS policies and the definition of significant risk which I summarised in a table at para 181:

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

39. My reasoning for this is provided within the section s42A report and includes my assessment of the RPS direction. This forms the basis for the policy and rule alignment and recommended amendments to the chapter.
40. The approach is a balance between assessing the submissions, amending the identified gaps in policy direction and regulatory provisions to deliver the policy directions. To be clear, I acknowledge the approach has some inherent limitations which I have identified within the s42A report (see para 66 and 159) and would prefer to use a complete and robust model covering the entire flood catchment with hazard categories. However, until a complete model for the catchment is ready, the recommended amendments represent a pathway that balances hazard risk and development in accordance with the higher order direction. As stated above, I strongly recommend undertaking a comprehensive variation of the chapter once that model is completed.
41. The following is a brief response to the Appendix 1 comments in Mr Roy's evidence given they identify specific PDP provisions;

- a) **Objective NH-O3 and NH-O4:** I acknowledge the support of the amendment to these two objectives.
- b) **Order of Policies:** I note the request to reorder policies NH-P2, NH-P3 and NH-P9 in reverse order. However, the order of policies does not alter the content or weighting of the policies by their sequence. They are directly related to the spatial hazard overlays rather than a sequence. That said NH-P9 could be shifted next to NH-P2 and NH-P3 but it would have no material effect on the direction.
- c) **Policy NH-P2:** I note the removal of ‘potential inundation areas’ is opposed on the grounds subdivision occurs beyond the stop bank protection area. I disagree with the request as subdivision is addressed within the actual and potential inundation area under NH-P3 which applies an ‘avoid unless’ direction with specific direction regarding subdivision and effects on sensitive activities. See the assessment in section 6.6.2 of the s42A report.
- d) **Policy NH-P2(1):** Mr Roy does not support the insertion of “loss of life or serious injury or significant damage to built development”. The submission (s122.004) sought this amendment to better clarify the intent and improve consistency with NH-P3 which used the same wording. No further submission was received from ES on this point. My assessment is at para 188 of the s42A report which accepts the request. No suggested amendments to the policy have been provided by Mr Roy.
- e) **Policy NH-P2(2):** The support to remove “properties” is acknowledged.
- f) **Policy NH-P3:** Mr Roy requests “demonstrating risk can be mitigated” be removed on the grounds it places an onus on developers to prepare a flood impact assessment. I disagree. The identified words in this policy provide a link the subsequent seven criteria which are inclusive and must all be addressed. Removing the words would result in a break with the alignment of rule framework and activity statuses. The related rule is NH-R6 which does not require a flood impact assessment, but the standards do require a minimum finished floor level above a 0.5% AEP event otherwise the activity is identified as a Non-Complying activity. The advice note states the technical advice can be obtained from ES which would assist in determining the flood level which the ES model could provide. This highlights the need to complete the model updates for a 0.5% AEP event. The economic impacts have been considered by Ms Natalie Hampson and determined to be minor in regard to total project cost.
- g) **Policy NH-3(4):** Acknowledge the support of the new subclause relating to “sensitive activities”.
- h) **Policy NH-P3(7):** Mr Roy opposes the wording to “identify building platforms”. This is assessed within para 173 of the s42A report and forms one of seven inclusive criteria. As such, I disagree with removing the subject terms.
- i) **Policy NH-P6:** Acknowledge the support of the suggested wording.

- j) **Policy NH-P9:** Acknowledge the support of the new policy.
- k) **Rule NH-R2 (now NH-R3):** Mr Roy opposes recommended changes to the rule. This is assessed at para 224 – 226 of the s42A report. The rule requires minimum finished floor levels for extensions to existing dwellings and excludes additional residential units thereby not increase the risk to occupants. For the reasons in the s42A I disagree with the opposition to this rule.
- l) **Rule NH-R2:** I note the opposition of this rule providing for accessory buildings to Primary Production. My assessment is in section 6.8.1 of the s42A report. For those reasons I support the inclusion of the rule, which is based on expert advice from T&T.
- m) **Rule NH-R2.1 (now NH-R5):** Mr Roy seeks amendments to avoid sensitive development in areas subject to hazard category H3 or greater (as Non-Complying) and in areas of H1 and H2 be identified as Restricted Discretionary. Mr Roy does not clarify the AEP event level for this category. However, based on the ES model for Gore town centre this amendment would result in a significant portion of the General Residential Zone, Medium Density Residential Zone and Town Centre Zone within the Stopbank Protection area being identified as Non-Complying. The evidence of Mr Morris addresses this matter further, stating this approach is overly simplistic as mitigation is feasible within H3 areas. I have also addressed this above in paras 34 & 35 where I disagree with the proposed hazard groups and corresponding activity status.
- n) **Rule NH-R2.2 (now NH-R6):** Mr Roy opposes this rule in part on the grounds that avoidance should be prioritised before mitigation is considered. No amendments are suggested by Mr Roy. The rule is aligned with policy NH-P3 and the spatial hazard overlay which covers a large area of the Mataura River catchment. The majority of development would be Non-Complying as requested by Mr Roy, except for the specific exclusions identified as Restricted Discretionary following further advice from Council flood engineers T&T. In the absence of those excluded areas any development in Mataura or the settlement and Rural Lifestyle zones would be non-complying. My assessment is in section 6.6.3 and 6.6.4 of the s42A report and my position remains unchanged.
- o) **Rule INFR-R9:** I acknowledge the agreement with the suggested wording.
- p) **Rule NH-R4:** I note Mr Roy agrees with the location of this earthwork provision within the natural hazard chapter but opposes the wording. This is addressed separately by Tina Carlson-McColl within her supplementary evidence, as the reporting officer for the earthworks chapter.
- q) **General Comment:** Mr Roy requests stop bank should be called “flood banks” otherwise it creates an impression they stop floods which is not the case. Stop banks are a fairly common term generally understood by the community. I am not opposed to changing the term as requested, but it could create some confusion. Notwithstanding this, ES requested the overview section recognise the stop banks do not provide 100% protection from floods. I accepted that submission and proposed a paragraph be added

to the overview of the chapter. My assessment is contained at para 284 – 288 of the s42A report.

Telecommunication Companies

42. Tom Anderson has submitted evidence on behalf of the Telecommunication Companies in relation to the request to exempt telecommunication infrastructure from the provisions within the Natural Hazards chapter. Mr Anderson notes the s42A accepts the request but does not give full effect to the submission. The submission sought exemption for all telecommunication infrastructure, but the recommended relief only exempts the identified 'regulated activity' infrastructure as defined within the NESTF.
43. Mr Anderson advises regulated activities under the NESTF include all telecommunications activities (lines, cabinets, antennas and poles) in all zones, except for new poles on private sites in urban areas. As a consequence, the wording of the note as recommended within the s42A report would not be applicable to new telecommunication poles on private sites in urban areas.
44. Section 6.8.4 of the s42A report assesses the submission request for an exemption. Paragraphs 326 and 327 consider the request noting regulation 57 of the NESTF provides for specific exemption of regulated activities from the natural hazard rules. I noted within the s42A report that regulated activities are defined within the NESTF and include telecommunication cabinets, antennas (on poles or buildings) small cell units and lines. Accordingly, the wording is accurate and consistent with the NESTF. However, I do acknowledge the issue Mr Andersons raises in terms of efficiency and the extent of the natural hazard overlays.
45. Mr Anderson suggests addressing this via the following amendment:

"Telecommunication infrastructure ~~is a regulated activity under the NESTF and~~ is exempt from complying with the provisions in this chapter."
46. The proposed amendment would extend the exemption of the natural hazard chapter provisions to include new poles on private land within urban zoned areas¹⁰. I acknowledge Mr Andersons evidence regarding telecommunication companies generally seeking to avoid hazard areas, and that when located within them resilience by design is incorporated to the infrastructure.
47. It is unclear how large a pole structure might be in terms of the diameter to determine what effect, if any, it could have on displacement of flood waters and any potential impacts on adjacent buildings or dwellings. The NESTF does not include standards for poles in urban areas in order to assess what the effect could be on flood hazards. That said Mr Morris has advised within his evidence¹¹ that telecommunication infrastructure (such as poles, cabinets and

¹⁰ The NESTF standards for regulated activities would continue to apply together with the provisions within the Infrastructure chapter, including INFR-R4, INFR-R8 and INFR-R10, and standards INFR-S3 and INFR-S7 which included requirements such as bulk, location and height.

¹¹ Paragraph 25 Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

antennas) are generally small and isolated structures so the effect on flooding is likely to be minimal.

48. As noted above, cabinets, small cell units and poles (within the road reserve in urban areas) are already expressly excluded by the NESTF. On the basis of this and Mr Morris' advice I consider the request can be accepted as sought by Mr Anderson 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.

49. The note has been amended within **Appendix A** to this evidence. The s32AA assessment within the s42A report at para 329 remains relevant for this amendment and therefore a separate s32AA assessment has not been undertaken.

Alliance

50. Mr Richardson has submitted evidence on behalf of the Alliance Group Limited ("Alliance"). Alliance own and operate a meat processing plant in Matura, which is split over three sites as identified on the location maps attached as Appendix C to Mr Richardsons evidence. All three sites are located within the flood hazard overlay identified as the Actual and Potential Inundation area.

Rule NH-R6

51. Mr Richardson notes rule NH-R6 identifies the construction of new buildings within with the Actual and Potential Inundation area hazard overlay as a Restricted Discretionary Activity for proposals that are not a sensitive activity. However, a concern is raised that non-sensitive buildings such as the meat processing plant would be captured by this rule which requires a minimum finished floor level above a 0.5% AEP flood event despite it not containing a sensitive activity. Mr Richardson therefore seeks further amendments to rule NH-R6 to address this issue.
52. While the flood risk identified through the review of the ES flood model and the advice of Tonkin & Taylor which inform this recommended rule is acknowledged, Mr Richardson considers a more efficient and effective consenting framework could be achieved by distinguishing between buildings containing sensitive activities and non-sensitive activities and providing a more permissive approach where the identified finished floor level is not achieved (where such proposals would elevate to a non-complying activity). In addition, Mr Richardson requests amending the matters of discretion to be less like standards and more as matters to be assessed.
53. Alliance proposes the following further amendments to rule NH-R6 in order to achieve the request relief (shown in red):

NH-R6 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 the stream channel; and
3. The finished floor level for the new building must be above the 0.5% AEP flood design level for sensitive activities.

Matters of Discretion:

1. The flood effect from a 0.5% AEP event for non-sensitive activities; is low due to the mitigation or
2. ~~The design does not increase the f~~ Flood effects on people and property or displacement of flood waters onto adjacent sites;
3. ~~That people can safely evacuate~~ Evacuation of properties during a 0.5% Annual Exceedance Probability flood event.

Activity status where compliance is not achieved for buildings containing non-sensitive activities:

Discretionary.

Activity status where compliance is not achieved for buildings containing sensitive activities:

Non-Complying

54. I refer to the evidence of Mr Morris¹² on removing the requirement of a minimum finished floor level for non-sensitive buildings. Mr Morris advises buildings designed for activities not containing sensitive activities do represent a comparatively lower threat to life because they typically accommodate fewer vulnerable occupants and have established emergency evacuation

¹² Para 29 Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

procedures. Based on that advice I agree the provisions can be amended to distinguish between sensitive activities and non-sensitive activities regarding minimum required floor levels. This is already an approach included within the recommended amendments to the chapter framework. Mr Morris also advises potential impacts of displacement and ability for occupants to evacuate should still be considered. As such, distinguishing the need for a minimum floor level based on sensitivity of the activity is therefore supported. However, the impact of displacement or ability for occupants to evacuate still remains a necessary assessment matter.

55. The requested change to the consenting pathway for non-sensitive activities will still enable assessment of the proposal in terms of displacement effects and ability to evacuate the site which is acknowledged by Mr Richardson, and I consider appropriate. However, I do not support the request to reduce the activity status from Non-Complying to Discretionary for a non-sensitive activity unable to meet the Restricted Discretionary Activity standards. In accepting the request to remove the standard requiring a minimum floor level, means the only relevant standard remaining for non-sensitive activities is to locate outside the stream channel. Given the very high hazard risk of the channel, I consider it is appropriate for a new building to be identified as a Non-Complying activity if proposed within the river channel.
56. As such, I recommend accepting the requested amendments by Alliance, with the exception of the amended activity status, which I consider should be retained as recommended within the section 42A report. I have included the accepted amendments within **Appendix A** to this statement of evidence. The s32AA assessment within the s42A report at para 243 remains relevant for this amendment and therefore a separate s32AA assessment has not been included.

Policy NH-R9

57. Alliance also advise they operate a hydro-electric scheme on the Mataura River, adjacent to the Mataura Plant. This is identified within the Mataura River Floodway hazard overlay. Mr Richardson advises that he considers the hydro-electric scheme to be critical infrastructure as it meets the definition of large scale renewable electricity generation. As such, Mr Richardson states that any works to the scheme is therefore provided for as a Discretionary Activity under the provisions within the Infrastructure chapter.
58. Mr Richardson notes that NH-R8 (Activities within the Mataura River Floodway) are identified as Non-Complying Activities with a specific exemption for critical infrastructure (because they are addressed separately under INFR-R9). However, Mr Richardson but that creates a potential conflict with the policy direction of NH-P9 which states “Avoid subdivision, use and development within the Mataura River Floodway”. Mr Richardson suggests an explicit carve out for critical infrastructure to align with the rule framework by amending the policy as follows:

“NH-P9

Avoid subdivision, use and development (except for critical infrastructure) within the Mataura River Floodway.”

59. The requested exemption to NH-P9 would mean the policy direction of NH-P6 would become the only relevant policy for infrastructure within the hazard overlays. The submissions in relation

to policy NH-P6 were assessed within section 6.9.2 of the s42A report which recommended predominantly accepting the amendments. The recommended amendment to the policy retains the requirement to avoid placement of critical infrastructure within identified natural hazard areas unless there is an operational need or functional need; that the infrastructure is designed to be functionally resilient, and any significant effects on people and property can be avoided, remedied or mitigated.

60. The policy direction (“avoid, unless...”) therefore aligns with a Discretionary Activity status and would provide assessment matters for critical infrastructure should a proposal seek to locate within the Maitava River Floodway, under either INFR-R9 or INFR-R10. This is also consistent with the RPS policy direction, in particular policy NH.5 which recognises the placement of critical infrastructure in areas at significant risk should be avoided unless there is no reasonable alternative and should be designed to be resilient during a natural hazard event.
61. As such, I support the requested amendment to NH-P9 which would clarify the intended scope of the policy and remove potential confusion or conflict with NH-P6 which is specifically addresses infrastructure. I have included the requested amendment in **Appendix A** to this evidence. Given the amendment serves to clarify the purpose of the policy and is consistent with the original intent I do not consider it necessary to undertake a further s32AA assessment.

KiwiRail

62. Ms Louise Taylor has submitted evidence on behalf of KiwiRail. Ms Taylor states the majority of the recommendations in the s42A report in relation to KiwiRail’s submission points are accepted and supported.

New Rule

63. However, Ms Taylor advises the rejection of KiwiRail’s submission (s132.049) for the addition of a new rule to provide for protection and maintenance works within the Maitava River Floodway as a permitted activity remains a concern for KiwiRail.
64. That submission point is assessed within section 6.8.3 of the s42A report. Paragraphs 321 and 322 comprise the assessment and reason for rejecting the request for a new permitted activity rule specific to KiwiRail. As part of the assessment, I noted the railway crossing over the Maitava River benefits from a designation and given the very high hazard risk identified within this part of the river it would be appropriate to consider any works proposed in this location, particularly where they would extend beyond the footprint of the designation. Ms Taylor has advised that some works are, on occasion, required outside the designation to protect the bank or bridge piers.
65. Ms Taylor does not provide any further evidence to support the requested exemption or specifically why KiwiRail require complete exemption from consenting requirements. As such, I

refer to the evidence of Mr Morris¹³ where he advises any works within the Maitara River Floodway have potential to reduce its capacity which could result in more overtopping and higher flood hazard within Gore and Maitara, this includes earthworks and protection works. Given the importance of the floodway Mr Morris recommends any works should be subject to assessment.

66. In the absence of further evidence and on the basis of the advice from Mr Morris my recommendation to reject a new rule providing a specific exemption for KiwiRail remains the same as within the s42A report.
67. Ms Taylor also requests reconsideration of the recommendation to reject KiwiRail's submission on NH-R7, NH-R8 and NH-R9 to provide a specific exemption for KiwiRail (s132.046, s132.047 and s132.048).

Rule NH-R7

68. The assessment of rule NH-R7 (construction of new or extended defences against water) is included at section 6.10.3 of the s42A report. ES (s85.093) sought the rule be retained as notified. Further submissions from Alliance (sFS27.013) and Silver Fern Farms (FS29.039) opposed the request by KiwiRail on the basis it is appropriate to consider the effects of such works as a Discretionary Activity, in order to assess the potential adverse effects on neighbouring or nearby land. I concurred and rejected the submission from KiwiRail.
69. No further evidence has been provided to support exempting KiwiRail from this provision and as such my recommendation within the s42A remains the same, noting the further evidence from Mr Morris in para 65 above.

Rules NH-R8 and NH-R9

70. With regard to rule NH-R8 (Activities within the Maitara Floodway) and rule NH-R9 (Buildings or structures located on the riverside of a stopbank). This is assessed in section 6.9.3 of the s42A report. Paragraph 388 accepts the request by Transpower (s101.043 and s101.044) to exempt critical infrastructure from these two rules to avoid duplication and confusion given rule INFR-R9 addresses critical infrastructure within the hazard overlays as a Discretionary Activity (and as such rules NH-R8 and NH-R9 which are Non-Complying activities would not apply to critical infrastructure). That amendment was recommended within Hearing Stream 7. As such, in the absence of any further evidence my recommendation within the s42A remains the same.
71. Para 5.6 of Ms Taylor's evidence outlines an issue regarding scope of activities under the definition of "critical infrastructure" and a related but separate request to HS7 to amend the definition. Notwithstanding this, the issue appears to be the same, where an exemption is requested due to the need to undertake works outside the designation. I refer to the evidence

¹³ Paragraph 27 and 28 Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

of Mr Morris¹⁴ which advises given the potential effects associated with works in this section of river it would be appropriate to assess the potential impacts. Therefore, it is my view that a consenting pathway is appropriate in order to assess the potential adverse effects of the proposal on the flood hazard. In the absence of any further evidence my recommendation within the s42A remains the same.

72. Further to the above Ms Taylor notes INFR-R9 applies to all infrastructure so suggests amending the exemption under NH-R8 and NH-R9 to apply to all infrastructure not just critical infrastructure in order to avoid duplication. However, I do not support the amendment as INFR-R9.1(d) does reference “critical infrastructure” and is therefore consistent.

Rule NH-R4

73. With regard to para 5.9 in relation to EW-R13 (now NH-R4 located within the NH chapter). My colleague Tina Carlson-McColl has addressed the requested amendments to that provision separately within in her supplementary evidence as the reporting officer for the Earthworks chapter.

Southland Federated Farmers

74. Ms Thomas and Ms Hunt on behalf of Southland Federated Farmers (“SFF”) have advised they accept the recommendations within the section 42A report in relation to their submission on the chapter Overview and policies NH-P1, NH-P3 and NH-P7.

Rule NH-R2

75. The submission by SFF also sought the addition of a new rule to permit unoccupied farm buildings in natural hazard areas. I assessed this request in section 6.8.1 of my section 42A report and accepted the request based on the expert advice of Councils flood engineers, Tonkin & Taylor.
76. My assessment is contained in paragraphs 293 – 302 of the section 42A report where I recommend inserting a new permitted rule providing for a non-habitable accessory building used for Primary Production within the actual and potential inundation area. The permitted standards are based on the advice from Tonkin & Taylor to address potential adverse effects on nearby flood protection assets and existing dwellings.
77. SFF have confirmed support for this provision subject to an amendment regarding the standard that requires a minimum 20m separation from a residential dwelling. SFF request that the minimum setback be reduced from 20m to 10m on the grounds 20m is potentially excessive in the context of a farmyard. No other evidence is provided to support this position.

¹⁴ Paragraph 27 and 28 Statement of supplementary evidence of Tim Morris on behalf of Gore District Council for Hearing Stream 11: Natural Hazards.

78. Tonkin & Taylor recommended the minimum setback of 20m as constructing a building near a dwelling has the potential to alter overland flow paths, resulting in increased flooding of the dwelling. Given the rule is identified as a permitted activity, then I consider it reasonable to exercise a certain degree of caution around the potential flood hazard effects, especially on sensitive activities such as residential dwellings. Given the building could be up to 500m² in floor area and could be located in an area that could displace potentially fast flowing and/or deep water then I consider it appropriate to retain the minimum 20m recommended by T&T to address potential adverse effects on a sensitive activity such as a residential dwelling.
79. It is my view that the potential benefits of retaining the 20m separation outweigh any inconvenience in terms of a farmyard layout, notwithstanding a resource consent as a restricted discretionary activity could be sought should there be a requirement to locate an accessory building closer than 20m to a dwelling. The assessment would be able to consider the potential flood hazard effects to determine whether a reduction was appropriate. As such I do not support the requested change.

Transpower (s101)

80. Transpower have advised they agree with the recommendations within the section 42A report. However, in doing so, Transpower include a table as Attachment A to their letter (dated 21 February 2025) which suggests consideration of an exemption for critical infrastructure for rules NH-R4 (earthworks within flood hazard areas) and NH-R6 (buildings within the actual and potential inundation area) to clarify critical infrastructure is excluded from these provisions where it is otherwise regulated by INFR-R9.
81. The Transpower submission (s101.043) requested the removal of critical infrastructure from rules NH-R4 and NH-R5 within the natural hazard chapter on the grounds it was better addressed under rule INFR-R9 within the Infrastructure chapter.
82. Paragraph 385 of the section 42A report assessed this matter and accepted the submission, while paragraph 388 considered the relationship between the Natural Hazard chapter and the Infrastructure chapter and concluded the amendment would avoid duplication and confusion over the application of the provisions. Those reasons remain true in the case of rule NH-R6 (buildings in an actual and potential inundation area) and as such I agree with the suggestion to add an exemption for critical infrastructure for NH-R6. I do not consider a s32AA is necessary in adding the exemption as the intention was always for buildings related to infrastructure to only be captured within INFR-R9, which is consistent with the recommendations within the section 42A report.
83. In the case of NH-R4 (earthworks) the rule was originally located within the Earthworks chapter identified as EW-R13 but as part of the response to Minute 27, the reporting officer has recommended it be relocated to the NH chapter where it is now identified as rule NH-R4.
84. The reporting officer assessed the requirements of earthworks within areas subject to flooding, and based on advice from Tonkin & Taylor identified depth and volume allowances within the

Actual or Potential Inundation areas to appropriately manage any adverse effects¹⁵. The approach to management of flood hazard is risk based, with a non-complying activity status for non-compliance in high-risk areas such as the Mataura River Floodway and on the river side of a stopbank, regardless of the purpose of the earthworks. Applying the exemption to this provision as suggested by Transpower would result in an absence of any regulation of earthworks for critical infrastructure within a high-risk area and would be inconsistent with the recommendations and expert advice. Consequentially I do not support the request to provide an exemption to NH-R4.

85. Where further changes are recommended to be accepted to the provisions, they have been updated within the **Appendix A** attached to this evidence.

¹⁵ Section 6.18 Rule EW-R13 Flood Hazard, Section 42A Report: Part 2: Earthworks