

Environment Southland Planning evidence

Invercargill District Plan - Plan Change 2 – Housing and Code of Practice

Prepared by Marcus Roy

Date: 4 May 2026

1. My name is Marcus Roy. I am the Strategy and Policy Manager at Environment Southland. I hold a Masters of Resource and Environmental Management from Massey University.
2. I have been a full member of the New Zealand Planning Institute (NZPI) since 2018 and I have 17 years' experience in planning and resource management, including consenting, compliance, policy development and associated report and evidence preparation. I was the Planning Manager at the Southland District Council for six years and have previously held the Making Good Decisions certificate.
3. I have been involved in the Environment Southland Submission on the proposed Invercargill District Plan - Plan Change 2 – Housing and Code of Practice (**PC2**).

Code of Conduct

4. 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 evidence.
5. 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 evidence to the Hearings Panel.
6. 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.
7. I am authorised to give this evidence on Environment Southland's behalf to the PC2 hearing commissioners (Hearings Panel).

Overview of evidence

8. My evidence assesses the proposal to enable greater residential intensification within an urban area identified as subject to flood hazard.
9. A key issue is whether enabling intensification in a flood-prone area is appropriate and whether proposed provisions effectively manage the current and future risks.

10. This evidence will assist the Panel in giving effect to the National Policy Statement for Natural Hazards 2025 (NPS-NH) and the Southland Regional Policy Statement 2017 (sRPS), address insights from the latest Climate Change Impact Assessment, and set out principles and recommended changes.

The Area of interest and key issue

11. A part of the Residential 1A zone lying between Tay Street and Tweed Street (**Area of Interest**) is located within the potential flood-prone area of Otepuni Creek. Please refer to Appendix 1 showing the location of this area.
12. The proposed rules seek to further enable medium density housing within this area, with a minimum permitted density of 300m², lots down to 200m² being restricted discretionary (public notification precluded), and higher density below 200m² (e.g. low-rise apartments) being discretionary.
13. A key concern is that the proposed easing of density restrictions will facilitate additional private investment within a known natural hazard risk area.

Overview of ES statutory role

14. Section 6(h) of the Resource Management Act 1991 (RMA) provides for “the management of significant risks from natural hazards” as a matter of national importance, which all persons exercising functions and powers under the RMA shall recognise and provide for.
15. Section 30 of the RMA outlines the functions of Regional Councils. Subsection (1)(c)(iv) directs that the Regional Council controls the use of land for the purpose of the avoidance or mitigation of natural hazards.
16. All decision-makers operating at the regional level within the RMA framework must give effect to the NPS-NH (identify and manage risk proportionately). All district plans are required to be consistent with the provisions of the sRPS (avoid or mitigate natural hazard risk to build resilient communities).

National Policy Statement for Natural Hazards 2025

17. The Hearings Panel will need to consider the relevant requirements of NPS-NH in undertaking this plan change, which apply to all activities except for infrastructure and primary production¹.
18. The National Policy Statement for Natural Hazards (NPS-NH) requires decision-makers to:
 - (a) Identify risk, including by:
 - Using the risk matrix in the NPS-NH to identify natural hazard risk associated with subdivision, use, or development; and
 - When assessing risk, considering existing and proposed mitigation measures, as well as residual risk where the design thresholds of those measures may be exceeded.

¹ Clause 1.3(2) National Policy Statement for Natural Hazards 2025.

(b) Manage risk proportionately, including by:

- Applying an approach that is proportionate to the level of natural hazard risk;
- Avoiding development in areas of very high natural hazard risk;
- Avoiding or mitigating high or medium natural hazard risk in proportion to the level of risk, including through location and design-based mitigation measures; and
- Taking into account the cost-effectiveness of mitigation measures relative to the level of anticipated risk.

(c) Use the best information available at the time the assessment or decision is made.

19. It should be noted that NPS-NH does not preclude councils from applying a broader or more conservative approach.
20. An assessment of natural hazard risk for the floodable Area of Interest using the NPS-NH risk matrix, undertaken by technical staff members at Environment Southland, identifies the risk as medium to high.
21. As noted in section 42A Report, it is acknowledged that the District Plan currently identifies the area between Tay and Tweed Streets as subject to a Riverine Inundation Level 1 natural hazard, described as low risk due to flood protection mitigation measures. The Section 42A report further notes that while there is policy guidance which discourages intensification in this area, there are no rules managing or restricting subdivision or development within the Level 1 area.³ I note that the provisions of the National Policy Statement for Natural Hazards 2025 take precedence over district plan rules where they impose more stringent requirements.
22. In areas assessed as having medium natural hazard risk, the NPS-NH requires decision-makers to avoid or mitigate risk in a manner proportionate to the level of risk⁴.
23. In my opinion, enabling additional increased residential density as a permitted activity within a flood hazard area is inconsistent with the NPS-NH and sRPS, as it will result in incremental increases in risk without requiring any assessment of those effects.
24. As noted in the Section 42A report, I acknowledge there is merit in adjusting matters of discretion to specifically address natural hazard considerations, and request a similar approach be applied to RES1Z-R8.
25. However, this does not address the underlying issue associated with enabling increased residential density as a permitted activity in a hazard-prone area, which removes the ability to assess risk at the point of consent.

³ Page 47 of S42A Report.

⁴ Clause 3.3(2)(b) of NPS-NH 2025.

26. In my opinion, a better option would be to designate the Area of Interest as a special area, exempt from the proposed changes, thereby maintaining the status quo.
27. It is noted that for subdivision in this area, issues relating to natural hazards remain a matter of discretion (SUB-R5.19). This provides a level of reassurance that the District Plan and sRPS policies relating to natural hazards will be considered when considering the appropriateness of subdivision in this area. It is appropriate that this be considered for any land use application to intensify residential density in these areas as well.
28. From a cost-effectiveness perspective, mitigating the flood risk in the Area of Interest this way does not appear to introduce significant additional costs beyond those associated with the standard plan change process.

Southland Regional Policy Statement 2017

29. Work began on the sRPS in 2009. It was notified in 2012, decisions issued in 2014 and it became operative in October 2017.
30. Sections 67 and 75 of the RMA require that regional and district plans give effect to the sRPS.
31. The natural hazards section of the sRPS is located in Chapter 8, and provides a framework for managing natural hazard risk in Southland. It also sets out the responsibilities of the local authorities in the region for the control of land use to avoid or mitigate natural hazards.
32. The chapter seeks to reduce the vulnerability to hazard events and build resilient communities that can cope with events should they occur. The key components for our discussion have been identified as the following.:
 - taking a precautionary approach;
 - management priorities;
 - avoiding significant risk; and
 - mitigating effects.
33. The next sections of my evidence step through these components and particularly how they apply to the PC2.

Precautionary approach

34. Policy NH.3 of the sRPS requires a precautionary approach to managing the effects of climate change and associated changes in the scale and frequency of natural hazards.
35. Two key aspects of this policy are particularly relevant to the Hearings Panel. First, natural hazards are expected to increase in likelihood and severity over time as a result of climate change. Second, flood protection infrastructure such as flood banks is designed to a specified level of service and therefore cannot provide protection against all flood scenarios.

36. The 2026 Southland Climate Change Impact Assessment⁵ indicates that the region is likely to experience more frequent heavy rainfall events, along with increases in multi-day rainfall totals towards the end of the century. As rainfall intensity increases, more frequent and more severe flooding events are also expected across Southland. Consequently, flood risk within the Area of Interest is expected to increase over time, with potential impacts exacerbated where flooding events coincide with high tide conditions.
37. There is a common perception in the community that flood banks provide complete protection from flooding and that land located behind them is safe for development. However, a residual flood risk remains even where flood banks are present. In addition, where planning frameworks are permissive, there is potential for increased development intensity in these areas, which can in turn increase the consequences of flood inundation should overtopping or failure occur.
38. The relief sought in this evidence is to give effect to the precautionary approach required by Policy NH.3 of the sRPS by ensuring that future development is managed to reduce exposure to natural hazard risk and support the development of a more resilient community over the medium to long term.

Avoiding significant risk

39. Policy NH.5 of the Southland Regional Policy Statement (sRPS) builds on Policy NH.4 and provides strong direction to avoid areas of significant natural hazard risk. The policy explanation includes criteria to assist in determining what constitutes significant risk. It is my view that the risk for the Area of Interest may not be significant currently but the risk is likely to increase over time as anticipate climate change impacts are experienced, potentially becoming significant.
40. In order to give effect to Policy NH.5 of the sRPS, I consider that the provisions of Plan Change 2 should not introduce more permissive subdivision and development settings within the Area of Interest, as this would be inconsistent with a direction to avoid areas of significant risk, considering the impact of climate change.

Mitigating effects

41. Policy NH.6 of the sRPS, also linked to Policy NH.4, provides guidance on the mitigation of natural hazard effects.
42. Where avoidance is not achievable, or the risk of natural hazards is considered not significant, Policy NH.6 anticipates that appropriate mitigation measures will be applied to reduce risk to an acceptable level. In this context, I consider that Plan Change 2 should include clear mitigation provisions for smaller-scale development, such as additions, alterations, and boundary adjustments, where these are proposed within flood-prone areas.

⁵ 2025 Murihiku Southland Climate Change Impact Assessment Report, available here <https://www.es.govt.nz/environment/climate-change/climate-projects/murihiku-southland-climate-change-impact-assessment-report>.

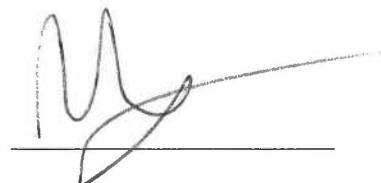
Recommendations

43. That PC2 be amended to:

- a) Exclude the identified flood-prone Area of Interest from the new permitted residential intensification provisions;
- b) Retain the ability for development here as discretionary or restricted discretionary, with explicit natural hazard assessment matters;
- c) Retain “Natural hazards issues” as a matter of discretion for the restricted discretionary subdivision activities; and
- d) Ensure the plan gives effect to NPS-NH and sRPS through a precautionary, risk-based approach to natural hazards.

Concluding statements

- 44. In my view, Plan Change 2 would benefit from more explicitly applying a risk-based approach so that it is consistent with both the sRPS and NPS-NH, particularly in relation to subdivision and development within the Area of Interest.
- 45. The recommendations in paragraph 43 would enable the Plan Change 2 in giving better give effect to the relevant policy framework.



Marcus Roy

Appendix 1

Overlay showing the extent of the Residential 1A zone in relation to areas currently identified as potentially floodable.

