

Under	Schedule 1 of the Resource Management Act 1991
In the matter of	Hearings on the proposed Gore District Plan
Between	Gore District Council

Legal submissions for hearing stream 12 - Wrap up

Date: 04/04/2025

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May it please the Panel

- 1 These submissions are filed on behalf of Council for Hearing 12 of the proposed district plan process, and will touch on four issues arising in the context of the following topics to be finally considered at this hearing:
 - (a) Scope matters relating to the Natural Features and Landscapes (NFL) topic;
 - (b) Evidence filed for a submitter on the Heritage (HH) topic;
 - (c) A brief comment on the DoC position which appears to seek quite rigid protections for indigenous vegetation and fauna in the Ecosystems and Biodiversity (ECO) topic; and
 - (d) Final publication of the plan as an e-plan and associated administrative steps.
- 2 Before turning to these substantive matters it is appropriate to pause and recognise that this is the final step in the hearings process, and express thanks to all of the submitters and their colleagues, friends and consultants who have participated in this process and made constructive contributions towards finalising a new district plan for the District. While acknowledging involvement in the process is not always easy for the community, it is exactly this engagement and the subsequent conversations with submitters presenting their different positions and varied points of view, that are an essential element of successful resource management processes.
- 3 Thanks also to the Council team who have managed the process and run each of the plan hearings, to all of the Council officers who have contributed and/or given evidence on various topics, and all of the consultant team that have worked on this project for a long time against the background of a challenging and constantly shifting legislative and policy framework.
- 4 Particular thanks is also offered to the Panel for all of the hard work that goes into preparing thoroughly for each hearing, for managing complex and ongoing procedural issues, for ensuring each submitter's views are heard and considered, and also for the attention that has been paid to ensuring this plan will appropriately respond to all the varied planning issues that arise in the Gore district, again, against the background of a challenging and constantly shifting legislative and policy framework.

Natural Features and Landscapes

- 5 The Panel has received thorough legal submissions on issues of scope for previous topics, including the Council's submissions for:

- (a) Hearing stream 8 (McNab topic), paras 7-16;
 - (b) Hearing stream 8 (SASM/NTCV topic), paras 10-16; and
 - (c) Hearing stream 9a (SASM/NTCV topic) paras 19-20.
- 6 These summaries can again provide the starting point for considering legal issues of scope for the NFL topic also.
- 7 As set out in the Response of Ms Banhidi to Minute 39 dated 14 March 2025, including at paragraphs 16(a) & (b) and 29-31, aspects of the NFL topic require careful consideration of mapping issues; and therefore, consideration of whether there is sufficient detailed mapping and information on boundary locations in submissions to provide scope for the panel to map and/or insert further provisions relating to the locations identified in paragraph 1.4 of Minute 39.
- 8 Issues of scope concerning changes to mapped boundaries were previously discussed in legal submissions on the NH topic. As in that topic, it is again submitted that mapping carries a higher onus in terms of ensuring sufficient content has been given in submissions to support any changes. It is submitted that the Panel should take especial care to ensure that the extent of any changes that might be made to plan maps are only made when there has been clear notice given in submissions on the plan, and where the submission properly put all potentially interested parties on notice that there is a chance their properties might be bought within any new mapping/new restrictions.
- 9 Including because in this case no mapping at all was included in the notified plan (i.e. the proposal is not a minor shift of a boundary), it is submitted that any information about new mapping/boundaries would need to be signalled to an even higher level of detail a) in an original submission or further submission, and also b) in evidence filed for a hearing. Beyond the issues identified by Ms Banhidi in relation to sufficient geology/geo-heritage evidence to underpin any new plan provisions, it is submitted that there is insufficient basis in submissions to enable new mapping of the new locations, to then incorporate new restrictions on private properties within those areas.

Heritage evidence

- 10 Heritage evidence has been filed for Mr Johnstone in relation to the property at 146 Broughton Street, Gore. While it is acknowledged that a Disclaimer section may be commonly included in a privately commissioned heritage report, it is noted that in the present context that disclaimer creates some

considerable limitations if the submitter wants the Panel to carefully consider and/or rely on the assessments of Mr Miller. It is submitted that the part of the Disclaimer that specifically seeks to limit any reliance on the assessment by a local authority such as Gore District Council needs to be revisited in particular.

- 11 It is submitted that for this report to be considered as evidence supporting Mr Johnstone's submission, it would be appropriate for Mr Miller to seek to delete the disclaimer section, and also for him to have reviewed and observed the requirements for independent expert evidence as set out in the Environment Court Practice Note 2023.¹

Further ECO evidence from Department of Conservation

- 12 The Department of Conservation (**DoC**) position that is supported in further evidence and legal submissions filed on 28 March 2025 appears to seek that the Panel draw a very hard line for certain activities. With respect, it is submitted that the Panel's decision will need to be more multi-faceted than the position presented by DoC. For example it is submitted that where Ms Williams's comments for DoC at paragraphs 7-8 tend to focus only on protection under section 6(c),² and fail to properly acknowledge or note any of the other policy considerations which must also be taken into account by the Panel when determining appropriate controls here.
- 13 It is submitted that the DoC position also appears to muddy the waters between controls available for managing Significant Natural Areas (SNA) vs controls that are more appropriate for other indigenous vegetation under clause 3.16 of the NPS-IB and the SRPS. As discussed at hearing 10 this Council and this Plan does not have complete mapping of all possible SNAs in the district at this time, which means:
- (a) There are only two SNA's in the proposed district plans. Those areas are subject to the SNA requirements in the NPS-IB.
 - (b) The IVA's and SIVA's that have been identified are to be managed under clause 3.16 of the NPS-IB only.
 - (c) Although the SIVAs have been assessed using the SRPS criteria, there are further steps that would need to be taken for them to qualify as an SNA. Those further steps are not available in this process.

¹ <https://environmentcourt.govt.nz/assets/Practice-Note-2023-.pdf>

² Paragraph 7 of Ms Williams' evidence dated 28 March 2025

- (d) At this time, further SNA's may only be identified through consent processes and/or through new mapping undertaken by Council and a later plan process.
- 14 It is further submitted that at paragraphs 6-7 of her submissions dated 17 February 2025, Counsel for the Department of Conservation unnecessarily overstates the relationship between the Wildlife Act 1953 and district plans made under the Resource Management Act 1991; and also fails to acknowledge that under the Wildlife Act an authority can be granted to enable impacts on wildlife. All permitted and consented activities that might be managed through the district plan are also subject to the provisions of the Wildlife Act 1953, which has been described by the Courts as the mainstay of statutory protection of animals in the environment.³ Thus if the provisions of the Wildlife Act are engaged by a new development proposal, then permission will still need to be sought from the Department of Conservation. In fact, it may actually be more accurate to say that the Panel can take comfort that any activity that does have a direct impact on lizards is able to be managed under the Wildlife Act 1953, and on this basis the Panel may better focus in on all of the resource management considerations applicable here.

Provision numbering in publication of plan

- 15 As the Panel is aware, the Gore District Plan is intended to be an e-plan, which will necessitate an administrative conversion after final decisions on all topics are made. It is anticipated that there may also be some administrative support required to ensure that numbering and internal references are correctly included throughout the plan.
- 16 At this stage the Council considers these final administrative steps can be directed by the Panel to be managed by a GDC administrative support team who may:
- (a) Finalise the Gore District Plan for publication online as an e-plan;
 - (b) Finalise all numbering and internal references as required by the Hearings Panel; and
 - (c) If required, prepare a summary of any further administrative steps made as a part of these final steps of the process for publication on the PDP pages.

³ [Environment Law Initiative v Director-General of the Department of Conservation \[2025\] NZHC 391](#) para 10

- 17 Subject to the date that these final steps need to be taken, they may potentially be:
- (a) Confirmed through a final sign off by the Panel; or
 - (b) Where appeals are lodged on the relevant provisions, completed as a part of any appeal process; or
 - (c) Where no appeals are made in relation to the particular provisions, completed as minor corrections to operative provisions made pursuant to clause 20A of Schedule 1 of the RMA.

Dated this 4th day of April 2025



Shelley Chadwick
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