

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.

**Hearing Stream 6 Reporting Officer Right of Reply of Victoria Woodbridge on behalf of
Gore District Council**

Date: 21 November 2024

Introduction:

1. My full name is Victoria Emily Jane Woodbridge. My Section 42A report sets out my qualifications and experience as an expert in planning.
2. I have prepared this right of reply in respect of Hearing Stream 6 to respond to Minute 24 issued by the Panel on 31 October 2024.
3. I confirm that we are 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.
4. Minute 24 sought a Reporting Officer comment on the following matters:
 - a. **NOISE-S3 and NOISE-S4** – a request to provide a redrafting of the rule so that for existing buildings the requirements are only triggered when an existing or proposed habitable room is directly affected by the alterations or additions and compliance with the Standards is only required in those rooms.
 - b. **NOISE-R9** – Consider provision of 'infrequent' helicopter movements in consultation with Jon Styles (Styles Group) and Tony Michelle (New Zealand Helicopter Association).
 - c. **NOISE-R6** – New Zealand Defence Force (NZDF) provided matters of discretion for the rule.

NOISE-S4 (Acoustic Treatment for Noise Sensitive Activities)

KiwiRail amendments

5. At paragraph 4(c) the Minute requested that KiwiRail consider amendments to NOISE-S4 wording. KiwiRail provided me with an amended copy of NOISE-S4 which I reviewed.
6. I am in agreement with the amendments proposed by KiwiRail in relation to rewording of how railway noise is calculated (NOISE-S4(1)).
7. However, I note the KiwiRail response to paragraph 4(c) includes a number of other amendments to NOISE-S4, I have the following comments on those amendments:
 - a. KiwiRail propose a number of minor syntax amendments to NOISE-S4(2)(c) and (d) and NOISE-S4(3) which I have no concerns with. The amendments to NOISE-S4(3)(a) and (b) appear to negate the need to Note 2 and as such I accept these amendments as being appropriate and note that they serve to make the standard requirements clearer for Plan users and decision makers.
 - b. I note that KiwiRail proposes to delete Notes 1-3. As noted above Note 2 appears to have been incorporated into NOISE-S4(3). Through my supplementary evidence I recommended deleting Note 1 and I retain that position. That just leaves Note 3. My concern with incorporating this into the standard, as suggested by NZTA was that it required ongoing compliance and as such was

inappropriate to be part of the standard which required compliance at a point in time. I think the Note serves a purpose in terms of highlighting ongoing maintenance, however, I am neutral as to whether this note is retained or deleted because regardless of the note ongoing maintenance would be required to ensure ongoing compliance with the standard so Note 3 may be something of a moot point.

- c. KiwiRail have sought to delete matter of discretion 2 “*alternative options for building design, layout or location that would achieve compliance with the standards in Table 4 to mitigate the effects of noise from the state highway or rail network*”. I have considered this proposed amendment. The intent of this matter of discretion was to allow for a situation whereby the site topography or existing features, for example, may mean acoustic treatment is not required.

However, having further considered the requirements of the standard it does not actually require that any works are undertaken provided compliance with internal noise levels can be achieved, therefore, if the site topography or features such as bunds meant the internal noise levels in accordance with Table 4 were achieved then resource consent would not be required and matter of discretion 2 not warranted. Furthermore, matter of discretion 4 broadly covers this same issue.

As such I agree that this matter of discretion can be deleted.

- d. I note that KiwiRail propose a new matter of discretion as follows:

- 5. The outcome of any consultation undertaken with KiwiRail.

Whilst it has generally been my approach to reject these requests on the basis that they may lead to an expectation around third party approval. In this instance I accept that the standard relates to a specific outcome which is to manage the effects of noise from the Railway or State Highway. As such KiwiRail and/or New Zealand Transport Agency Waka Kotahi (NZTA) are likely to be the only affected parties. For this reason, I accept the inclusion of a specific matter of discretion relating to the outcome of consultation with these parties.

As NOISE-S4 relates also to the State Highway Noise Control Overlay I recommend that the matter of discretion sought by KiwiRail is amended as follows and a further matter of discretion is added in relation to New Zealand Transport Agency Waka Kotahi (NZTA). This was a matter NZTA sought through submission (s112.113).

- 5. The outcome of any consultation undertaken with KiwiRail in respect of the Rail Corridor Noise Control Overlay.
 - 6. The outcome of any consultation undertaken with New Zealand Transport Agency Waka Kotahi (NZTA) in respect of the State Highway Noise Control Overlay.

Wording of NOISE-S4(1) and NOISE-S3(1)

8. At paragraph 4(a) the Panel has raised a concern with the following wording - *“alterations or additions to a dwelling (or other buildings used for noise sensitive activity) that have no direct impact on a habitable room (for example, renovating a kitchen, adding toilet facilities, or extending a deck) would trigger compliance with the standards throughout the building.”*
9. The panel requests the standard is redrafted to make it clear that *“for existing buildings the Standards are only triggered when an existing or proposed habitable room is directly affected by the alterations or additions, and compliance with the Standards is only required in those rooms.”*
10. I have considered rewording the standard, although my own view is that the wording is sufficiently clear, I have landed on an alternative wording, which in my opinion makes the standard rather verbose. However, the following is an option if the Panel considers this to be clearer for Plan users (amended text in purple).

NOISE-S4	Acoustic Treatment for noise sensitive activities within the railway corridor and state highway noise control overlays
1. The internal <i>noise</i> levels contained in Table 4 shall be met for any new or relocated building which is occupied by a noise sensitive activity, and 2. For existing buildings containing a noise sensitive activity which are altered, amended or extended the internal noise levels contained in Table 4 shall be met for any new, altered or extended habitable room or space identified in Table 4. ~~to alterations or additions to any existing building, including relocated buildings, which will be occupied by a noise sensitive activity.~~ Road noise shall be calculated based on measured or predicted noise levels plus 3dB. Railway noise shall be assumed to be 70 LAeq(1h) at a distance of 12m from the railway network and shall be	Activity status where compliance is not achieved: Restricted discretionary Matters of discretion are restricted to: 1. Adverse effects on health, well-being and amenity of building occupants. 2. Alternative options for building design, layout or location that would achieve compliance with the standards in Table 4 to mitigate the effects of noise from the state highway or rail network. 3. Any reverse sensitivity effects on the state highway and rail network. 4. Any natural or built features of the site or surrounding area that will mitigate noise effects.

11. I have included the amendment in Appendix 1 and I am neutral as to whether the wording as recommended through my supplementary evidence or this amended wording is adopted by the Panel.
12. In further considering NOISE-S4 I have identified a number of refinements to NOISE-R8 (NOISE-R7 as notified) which I consider would be appropriate, as follows:
 - a. Include the words ‘and/or’ after NOISE-R8(1)(a) to make it clear the requirement could apply to either or both of (a) and (b) because there may be instances where a property is covered by both overlays or just one.
 - b. I recommend that the activity status is amended to Restricted Discretionary with the matters of discretion as per NOISE-S4 for NOISE-R8(1) and NOISE-S3 for NOISE-R8(2). I consider this aligns better with the activity status for NOISE-S3 and NOISE-S4 and there seems little justification for a Discretionary Activity status when the standards clearly set out the expectations for resource consents.
13. Therefore, I recommend the following amendments to NOISE-R8 – amended text in purple (refer also to Appendix 1). I consider this to be minor (in the case of the

amendment to NOISE-R8(1)(a) or a consequential amendments (in the case of the activity status):

NOISE-R78 Construction of, additions to or alterations to ~~new and relocated~~ buildings ~~for occupied by~~ a noise sensitive activity		
All zones	Activity status: Permitted	Activity status where compliance is not achieved <u>for NOISE-R8(1):</u>
	Where: 1. Any <i>habitable room</i> within a <i>building</i> used for a <i>noise sensitive activity</i> which is located within the: (a) rail ~~way~~ -corridor <u>noise control</u> overlay; <u>and / or</u> (b) the state highway noise control overlay complies with NOISE-S34.	~~Discretionary~~ Restricted Discretionary Activity <u>Matters of Discretion:</u> 1. <u>The matters of discretion for NOISE-S4</u>

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Appendix 1 – Recommended Amendments to the Noise Chapter – Supplementary Evidence

<u>Advice Note: NOISE-R8(1) includes buildings that have been constructed offsite and subsequently relocated and placed within the rail corridor noise control overlay and/or the state highway noise control overlay.</u>		
Town Centre Zone, Local Centre Zone, Mixed Use Zone, Light Industrial, General Industrial Zone, Airport Zone	2. Any <i>habitable room</i> within a <i>building</i> for a <i>noise sensitive activity</i> complies with NOISE-S3.	Activity status where compliance is not achieved <u>for NOISE-R8(1):</u>
		~~Restricted~~ Discretionary Activity <u>Matters of Discretion:</u> 1. <u>The matters of discretion for NOISE-S3</u>

Notes

14. Minute 24 directs that Council's legal adviser provide advice on the status of Notes contained within the PDP rules and standards and I understand this will be forthcoming prior to the deadline of 28th November 2024.
15. However, in reflecting specifically on the KiwiRail proposed amendments to NOISE-S4 and the purpose of the notes for NOISE-S3 and NOISE-S4 I recommend that these notes are deleted for these standards. I discuss this further above and below.

Consequential amendments to NOISE-S3

16. As noted above I recommend that matter of discretion 2 for NOISE-S3 is deleted to align with the amendment proposed by KiwiRail and to which I agree, to NOISE-S4.
17. However, as the purpose of this provision relates to reverse sensitivity effects from activities within specific zones I do not consider it is necessary or appropriate to include matters of discretion relating to the outcomes of discussions with KiwiRail or NZTA, nor do I believe that this is something sought by either submitter in relation to NOISE-S3 as this standard does not relate to their overlays.

18. Full amendments are included within Appendix 1 and for the sake of clarity I have included the amendments I reviewed for KiwiRail to demonstrate my agreement to these amendments.

Section 32AA Evaluation

19. The proposed amendments are technical in nature and do not change the outcomes sought by NOISE-R8, NOISE-S3 or NOISE-S4. I consider that these amendments will be efficient and effective at ensuring clarity and ease of use for plan users and decision makers.
20. The amendments ensure the provisions give effect to policy direction and therefore achieve the purpose of the objectives.

NOISE-R6 (Noise from Temporary Military Training Activities)

21. I agree with the matters of discretion proposed by NZDF and recommend that NOISE-R6 (as notified amended to NOISE-R7 through the s42A report) is amended to include those matters:

NOISE-R6 Noise from temporary military training and emergency services training activities involving live firing, firing of blank ammunition, and/or the use of explosives		
All zones	Activity status: Permitted Where: - The activity complies with the following minimum separation distances to any notional boundary: 0700 to 1900 hours: 500m 1900 to 0700 hours: 1250m	Activity status where compliance is not achieved: <u>Discretionary Restricted Discretionary</u> <u>Matters of Discretion:</u> <u>The level, duration, and character of the noise, including the ambient noise levels.</u>

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| <ol style="list-style-type: none"> Where the minimum separation distances specified above cannot be met, then the activity shall comply with the following peak sound pressure level when measured at the notional boundary of any building housing a <i>noise sensitive activity</i>: <ol style="list-style-type: none"> 0700 to 1900 hours: 95dBC 1900 to 0700 hours: 85dBC; and Notice must be provided to the Gore District Council at least 5 working days prior to the commencement of the activity, specifying: <ol style="list-style-type: none"> whether the activity involves live firing and / or the use of explosives, or firing of blank ammunition, the location of the activity and the boundaries within which the activity will take place, distances to buildings housing noise sensitive activities, and the timing and duration of the activity; and The activity is carried out for no longer than 31 days on the site in any one calendar year, excluding set up and take down which can occur one week immediately prior to and one week immediately following the activity. | <ol style="list-style-type: none"> <u>The nature and location of nearby activities and the adverse effects they may experience from the noise.</u> <u>Whether the noise is likely to adversely impact on the amenity values or general environmental quality of the area in which it is received.</u> <u>Whether the noise generated is likely to cause sleep disturbance or result in adverse health or well-being effects.</u> <u>The effectiveness of any mitigation or noise attenuation measures proposed, such as: reduction of noise at the source, alternative techniques or machinery available, insulation or enclosure of the noise source, mounding or screen fencing/walls, hours of operation.</u> <u>The extent to which alternative locations and methods have been considered to avoid, remedy, or mitigate any adverse effects recognising functional need, operational need, and any technical, and practical constraints.</u> |
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22. An updated rule is provided in Appendix 1.

Section 32AA Evaluation

23. The amendment to the activity status is considered to align better with the policy direction in NOISE-P4 which is to *“enable the infrequent noise levels associated with temporary activities, temporary military training activities and emergency services training activities provided that the level, timing and duration of noise is reasonable.”* It is also an efficient and effective amendments which provides clear direction for plan users and decision makers. Given the potential adverse effects are known there is no risk with the amendment as it seeks to narrow the scope of what may be considered by decision makers to those known adverse effects. Overall, the amendment is considered more appropriate to achieve the objectives.