IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

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Gore District Plan - Decisions on Submissions

Topic 11: Gore District Council Designations

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Date of Hearing
17 and 22 October 2024

Index

1. Introduction

1.1 Scope of this Decision 1

1.2 Procedural Matters 1

1.3 Statutory Provisions 1

2 Designation GDC-10 East Gore Water Treatment and Pump Station

2.1 The Notice of Requirement 2

2.2 The Submissions 3

2.3 Section 42A Report 4

2.4 Evidence of the Council 5

2.5 Supplementary Section 42A Report 6

2.6 Evidence on Behalf of Andrea McMillan and Tony Harpur 6

2.7 Site Visit 7

2.8 The Hearing 7

2.9 Overview of Statutory Considerations 9

2.10 Environmental Effects of the Designation 11

2.11 Decision on Designation D10 East Gore Water Treatment and Pump Station . 13

3. Other Designations of the Gore District Council

3.1 Carried Over Designations 14

3.2 New Designations 15

Appendix A. Submissions (attached as a separate document)

Appendix B. Plan Chapter (attached as a separate document)

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel (Panel) on the submissions and evidence considered in relation to Notices of Requirement (NOR) of the Gore District Council that were notified in Proposed Gore District Plan. The Hearings Commissioners comprising the panel for this hearing were Commissioners Keith Hovell, Cliff Bolger and Glenys Dickson.

1.1.2 Only one Notice of Requirement, the East Gore Water Treatment and Pump Station (Water Treatment Facility), received submissions in opposition. That is dealt with separately in section 2 of this Decision. All other notices of requirement are considered together in section 3 of this Decision.

1.1.3 This decision only considers the designation of the Water Treatment Facility. The PDP as notified also included a 50 metre buffer area extending beyond the site of the East Gore Water Treatment and Pump Station. This buffer was opposed by the following submitters:

- Courtney Horrell (S10.001)
- Jenna Potter (S11.001)
- Isobel Agnew (S48.001)
- Richard Agnew (S56.001)
- BL & KM Shields (S6.001)
- Damiyen Crosbie (S7.001)
- Anton Hoffman (S8.001)
- Laura-Lee Hoffman (S9.001)

1.1.5 The submissions opposing the buffer area were considered at the Residential Zones hearing. The decision of the Panel in response to those submission is to remove the buffer area from the District Plan maps and all references to it in the Plan, as set out in Decision 23– General Residential Zone at paragraph 4.1.6.

1.1.6 Where these submitters raised concerns regarding the environmental effects associated with the use of the East Gore Water Treatment and Pump Station these are referred to in section 2.2 and had regard to in this decision.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel has used the following abbreviations:

Full Text	Abbreviation
East Gore Water Treatment and Pump Station	Water Treatment Facility
Gore District Council	Council
Hearings Panel	Panel
Notice of Requirement	NOR
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under RMA section 42A	s42A Report
Resource Management Act 1991	RMA
RMA section	s

1.2 Procedural matters

1.2.1 There were no pre-hearing meetings or meetings undertaken in accordance with clause 8AA of Schedule 1, on the submissions relating to this Decision.

1.2.2 No member of the Panel identified any conflicts of interest.

1.2.3 No procedural matters relevant to the hearing process were raised at the hearings. Brett Giddens queried the legal status of the activities currently on the Water Treatment Facility site, but no evidence was provided on this matter and as set out below, it is not a matter the Panel has had regard to.

1.2.4 No matters of trade competition were raised.

1.3 Statutory Provisions

1.3.1 The Panel's Decision1 Preliminary Matters and Statutory Requirements Relevant to Decisions sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in legal submissions and evidence provided to the Panel. This framework is not repeated in this Decision. Rather, this Decision should be read in conjunction with Decision1.

1.3.2 In relation to the consideration of a Notice of Requirement by Gore District Council the following provisions in section 168A of the RMA apply:

> **Section 168A Notice of Requirement by territorial authority**
> (3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -
> (a) any relevant provisions of -
> (i) a national policy statement:
> (ii) a New Zealand coastal policy statement:
> (iii) a regional policy statement or proposed regional policy statement:
> (iv) a plan or proposed plan; and
> (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—
> (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or
> (ii) it is likely that the work will have a significant adverse effect on the environment; and
> (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
> (d) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.
> (3A) The effects to be considered under subsection (3) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority.
> (4) The territorial authority may decide to—
> (a) confirm the requirement:
> (b) modify the requirement:
> (c) impose conditions:
> (d) withdraw the requirement.

1.3.3 The delegations of the Panel provide for it to make and issue decisions on Notices of Requirement of the Council and any submissions lodged to them.

2 Designation GDC-10 East Gore Water Treatment and Pump Station

2.1 The Notice of Requirement

2.1.1 The Notice of Requirement dated 15 December 2022 sought the inclusion of a designation over land fronting Wentworth and Talbot Streets, East Gore, for the purpose of "East Gore Water Treatment Plant and Pump Station" over an area of 6.979 ha. The land is legally described as Section 10 Block XXIV Town of East Gore and

Section 11 Block XXIV Town of East Gore (Wentworth and Talbot Street) and shown below.

Figure 1: Designation GDC-10 East Gore Water Treatment and Pump Station.

2.1.2 The report prepared with the Notice of Requirement states:

> GDC as a Requiring Authority under Section 166 of the RMA has identified the need to raise awareness of the East Gore Water Treatment Plant and Pump Station by seeking a designation within the Gore District Plan" and the "designation is sought to provide legal authorisation for the works (both existing and future works) their construction, operation, maintenance, repair, reconstruction, extension, modification, replacement, and improvement.

2.1.3 At the time of issuing the Notice of Requirement no works, other than those existing on the site were intended. In that regard, the accompanying report stated:

> Typically, a notice of requirement refers to 'proposed' works. In this instance, the physical construction of the 'proposed works has occurred. There may be improvements undertaken to the existing works in the future. However, none are explicitly proposed as part of this notice and would be dealt with by way of an Outline Plan in the future or should additional land be required, an alteration to the designation.

2.1.4 The accompanying report also assessed the relevant matters in RMA section 168A, including:

- The environmental effects of the use of the site, existing and in the future.
- The provisions of Part 2 of the RMA
- The Regional Policy Statement
- The Operative District Plan

2.1.5 Of note in the context of the submissions lodged, the following assessment was made regarding noise effects:

> Noise associated with the works will generally [be] limited to that associated with the operation of vehicles or plant and machinery (pumps/aeration towers) which provide the continued supply of water, and any maintenance of the water supply scheme. Any increase in noise would only be for the duration of any future construction or maintenance process. Therefore, any noise generated from these activities will be temporary and of a short duration.

Any future works proposed will also be subject to the Outline Plan process.

2.1.6 An assessment of alternative sites was not considered relevant as the East Gore Water Treatment Plant and Pump Station is existing.

2.1.7 The accompanying report concluded that as the designation relates to an existing water treatment plant and pump station that is well established on the site, no conditions were considered necessary.

2.1.8 The Panel notes, during 2021 – 2022 additional works were undertaken on the site, including the construction of a new treatment facility and building and a new aerator. None of these works is referred to in the Notice of Requirement.

2.2 The Submissions

Submitter (S)	Decision Requested
S25.003 Peter Kempthorne	Oppose in part. Water treatment plant is where the second reservoir was to be built and a substandard aerator was put too close the boundary. Build the treatment plant so that it complies with limits on noise and visual rules
S134.011 Andrea McMillan and Tony Harpur	Oppose In recognition of the significant adverse noise and vibration effects, there is clear and direct conflict with the objective and policies (NOISE-O1, O2, P1, P2) in the Noise chapter of the PDP. No technical supporting documentation was included with the NOR to support the designation and its effects, particularly acoustic advice. The NOR includes no conditions, meaning no controls on built form, location, scale, nature and intensity of effects from the WTP and any future expansions. That all matters in the PDP relating to the WTP and buffer (and any ancillary matters) are withdrawn from the PDP.
S10.001 Courtney Horrell S11.001 Jenna Potter S7.001 Damiyen Crosbie S8.001 Anton Hoffman S9.001 Laura-Lee Hoffman	Concerned that the buffer zone will reduce value on the house/land. There has been a lack of consultation with regard to the proposed buffer zone. Concerned that environmental, noise and lights from the plant will also be an issue.
S6.001 BL & KM Shields, Barry Shields	We feel this would devalue our property as the Buffer Zone extends to only a few meters from our dwelling (house). This would be on any LIM report required by prospective buyers for the property in future making sale difficult at present valuation. Thers has been no consultation with landowners for the proposed Buffer Zone. Noise would be an issue as well.

2.2.1 The submission from Andrea McMillan and Tony Harpur is 30 pages in length and has been read in its entirety by the Panel.

2.3 Section 42A Report

2.3.1 In a report dated 19 August 2024, Tina Carlson-McColl provided details of all designations, existing and proposed, included in the PDP. Regarding the new designations of the Gore District Council, these were assessed collectively, stating:

> 68. The proposal is consistent with the direction of the RPS for the management of natural and physical resources, in particular in terms of the protection and operation of critical infrastructure (Objective INF.1, Policy INF.1 and INF.3), and urban development (Objective Section 42A Report: Part 2: Transport Page 23 Gore District Council URB-1) and the strategic objectives of the PDP, including UFD-O1, UFD-O2 and UFD-O7 as the reticulated network is essential in providing for growth and new development in an integrated and sustainable manner.
>
> 69. The facilities play a vital role in providing water treatment, supply and waste management and the utilities provide an overall benefit to the community. The Water Supply Treatment Plant has an operational need to locate in a residential zone because of technical, logistical and operational characteristics.

70. As the facilities are well-established and all the sites are owned and administered by Council I consider that it has sufficient interest in the land and it unnecessary to provide a detailed consideration of alternative sites. I also agree that designating these sites will provide more certainty to the requiring authority to provide certainty for the strategic planning and management of the site and will provide greater awareness of the facilities.

71. The facilities have operated on their respective sites for a period of time and are considered part of the existing environment, however no technical expert effects assessments and no details relating to the establishment of the facilities or their operation have been provided with the requirements, which are issues raised in the submission by Andrea McMillan & Tony Harpur (S134.011).

72. Moreover, although I agree that the effects of any future works are able to be properly managed through the outline plan process, submitters have raised a number of amenity effects relating to the ongoing operation of the East Gore water treatment plant (S10.001 Courtney Horrell, S11.001 Jenna Potter, S25.003 Peter Kempthorne, S48.001 Isobel Agnew, S56.001 Richard Agnew, S6.001 BL & KM Shields Barry Shields, S7.001 Damiyen Crosbie, S8.001 Anton Hoffman, S9.001 Laura-Lee Hoffman, S134.011 Andrea McMillan & Tony Harpur). I therefore consider that it would be appropriate that conditions are included to manage these effects, including in relation to noise, light spill and landscaping to soften the visual appearance as the facilities and tanks are not necessarily consistent with anticipated residential amenity values. Although submissions have only been received on GDC-10, in my view there are other water treatment plants within residential areas that may have similar amenity effects which may appropriately be managed in this manner. On this point I note that the inconsistent treatment of the sites is also raised in submission by Peter Kempthorne (S25.004) and accept this is a matter for consideration by the panel.

2.3.2 Appendix A attached to the s42A Report contained conditions recommended to apply to the Council's designations. These conditions related to light from the site and noise, in each case seeking compliance with provisions of the underlying Residential Zone.

2.3.3 The Panel is aware of noise issues at the site following the 2020 – 2021 upgrading of the facility and the intent of the Council in the future to increase the volume of water being treated at the facility. Given the concerns of the submitters that an increase in the intensity of use at the site will result in increased noise being generated, the Panel issues Minute 17 dated 17 August 2024, directing the Council to submit written evidence from appropriate experts outlining planned future activities and use at the site, its potential adverse effects as identified by the submitters, and steps to be taken to avoid, remedy or mitigate those effects.

2.3.4 To enable adequate time for evidence to be prepared and for that to be reviewed by the submitters, the hearing to consider the submissions to the East Gore Water Treatment and Pump Station was deferred until 17 October 2024.

2.4 Evidence of the Council

2.4.1 Two statements of evidence were submitted by the Council:

(i) Matt Bayliss

Matt Bayliss is the Technical Director for Water Infrastructure at Pattle Delamore Partners Ltd and between April 2016 and April 2024 he was the Council's 3 Waters Asset Manager. The following points were raised by Matt Bayliss:

- The drinking water supply for the Gore Township services a population of approximately 8,200. It protects the health and wellbeing of the community and is indispensable to economic growth and development for the district.

- Currently there are two separate water treatment plants that treat drinking water for the Gore water supply. In December 2017, the Council resolved to centralise Gore's water treatment at the East Gore Water Treatment Plant. This required a major upgrade of the East Gore site, completed in May 2022.
- Following the commissioning of the upgraded water treatment plant, mitigation measures were required to reduce noise from a new aeration tower.
- The intent is to increase the capacity of the treatment plant in the future and potentially fluoridate the water supply. Additional or improved monitoring equipment is also planned for the water treatment plant. However, the 2022 upgrade has been designed to allow for these changes and no significant new structures are anticipated to be required at this site in the short to medium term.

(ii) Brendon Shanks

Brendon Shanks is an Associate with Marshall Day Acoustics with 17 years' experience specialising in acoustics. The following points were raised by him in a written statement of evidence:

- Measurements taken in November 2022 showed that noise from the aeration tower exceeded the 40 dB LAeq nighttime limit by 14 decibels when operating at 60% and more than 20 decibels when operating at 100%. As a result, he recommended mitigation measures to reduce the noise to a compliant level and these were completed in January 2024. He conducted further noise measurements after the mitigation was installed and these showed compliance with the allowable limit at 60% loading.
- If the load on the aeration tower is required to increase, further mitigation of the air outlets is possible. This would include extending the shielding added to the aeration tower, and that could be done without significantly impairing the performance of the aeration tower.
- The night-time noise limit of 40 dB LAeq at the site boundary provides adequate protection against adverse noise effects. Particularly when considering that based on the distance to the dwelling at 36 Talbot Street, noise from the aeration tower will be less than 30 dB LAeq at the façade. This would result in internal noise levels below 20 dB LAeq with partially open windows. This is well below the noise level of 30 dB LAeq recommended by the World Health Organization (WHO) in bedrooms for good quality sleep.

2.5 Supplementary Section 42A Report

2.5.1 Prior to the hearing, the Panel received a Supplementary s42A Report from Tina Carlson-McColl.

2.5.2 The Supplementary Report included an assessment by Jon Styles on noise issues. It was his view that the noise limits provided in the PDP, with a night-time noise limit of 40 dB LAeq at the site boundary, are designed to control the noise sources that are anticipated and provided for in the General Residential Zone and are not specifically designed to control noise from mechanical plant that operates on a 24/7 basis. It was the recommendation of Jon Styles that either a night-time noise limit of 40 dB LAeq or 35 dB LAeq be applied to the Water Treatment Facility, measured at the boundary, with the latter providing additional benefit for noise sources that are constant.

2.5.3 Having regard to the assessment by Jon Styles, Tina Carlson-McColl recommended the lower night-time noise limit apply by way of the following condition:

The Noise (rating) level and maximum noise level arising from any activity shall not exceed:

(a) 7am to 10pm – 50 dB LAeq

(b) 10pm to 7am – 35 dB LAeq and 70 dB LAFmax

When measured and assessed at or within the boundary of any other site in the General Rural Zone, Large Lot Residential Zone or Medium Density Residential Zone.

2.6 Evidence on Behalf of Andrea McMillan and Tony Harpur

2.6.1 Brett Giddens of Town Planning Group Ltd had previously submitted a statement of evidence dated 7 August 2024 in which the key issue discussed was the buffer area shown in the Proposed District Plan. In a further statement of evidence, Brett Giddens questioned the lawfulness of the current activities on the site, and the way this has incorrectly been used as the starting point for assessing the effects of the proposed designation. He also noted a lack of assessment of alternatives as required by the RMA, nor any assessment of the designation against the provisions of the Proposed District Plan.

2.6.2 Brett Giddens stated it was unclear how the Council proposed to meet the required noise standard, which in his view should be Option 3 identified by Jon Styles, and in any case, a Noise Management Plan was required to provide certainty for the assessment and management of noise at the Water Treatment Facility. Given the proposed subdivision of his clients' property being processed by the Council, he also considered the approach of Jon Styles, assessing noise over the entire site to be the correct one.

2.6.3 Brett Giddens expressed concern no conditions had been volunteered in the Notice of Requirement and recommended the following conditions he considered appropriate:

1. Limited development to that shown on 2020 plan
2. Prohibiting lighting facing adjoining residential properties
3. Requiring a noise management plan
4. If noise limits were exceeded following any increase in the level of treatment on the site, that level of use should be reduced until such time remedial works are undertaken and testing showing compliance with the required noise standard.

2.6.4 He also outlined additional matters he considered should be included in the recommended noise management plan.

2.7 Site Visit

2.7.1 The Panel undertook a visit to the Water Treatment Facility on 16 October 2024. In compliance with the Council's Health and Safety requirements, the Panel was accompanied by Aaron Green, the Council's 3 Waters Operations Manager. He provided a breakdown of activities on the site. Of note was the mitigation works to reduce noise emanating from the aerator.

2.7.2 The Panel also visited the property of Andrea McMillan and Tony Harpur at 36 Talbot Street on 22 October 2024 in the presence of Andrea McMillan who drew attention to the full extent of the property.

2.8 The Hearing

2.8.1 The hearing commenced on 17 October 2024. Those attending the hearing were:

- Tina Carlson-McColl, author of the s42A Report, with Jon Styles in attendance by video and Shelley Chadwick, legal counsel, in person.

- Jason Domigan, General Manager Critical Services, representing the Gore District Council, accompanied by Matt Bayliss (in person) and Brendon Shanks (via video).
- Peter Kempthorne, a submitter
- Brett Giddens, a resource management and planning consultant (via video), representing Andrea McMillan and Tony Harpur.

2.8.2 Neither Andrea McMillan nor Tony Harpur was able to attend the hearing on that day, arising in part from confusion over the hearing date. Consequently, the hearing was reconvened on 22 October 2024, to enable Andrea McMillan to speak to the Panel and respond to questions.

2.8.3 The pre-circulated statements of evidence, reports and submissions were taken as read. Key issues arising in the hearing are set out below.

2.8.4 Peter Kempthorne lives on the opposite side of Talbot Street and does not experience any noise issues from his property, although he is aware of the noise on some days when walking down the road towards town.

2.8.5 Matt Bayliss advised the Panel the purpose of the designation is to ensure the Council can improve, promote and protect public health within the District in accordance with section 23 of the Health Act 1956. He noted the current facilities were designed to enable centralisation of the Council's water treatment facilities and no significant new structures were anticipated to be required at the site in the short and medium term.

2.8.6 Matt Bayliss accepted that increasing the volume of water treated at the site has the potential to increase noise above levels allowed by the District Plan. The level of noise is related to the speed of the fan on the aerator tower and should noise increase above the permitted level when additional water is treated at the site, the speed of the fan would be adjusted to ensure compliance, with additional chemicals being used to offset that while mitigation measures are assessed and undertaken. He also noted it would be an extremely expensive option to relocate the aerator tower.

2.8.7 Brendon Shanks and Jon Styles agreed that the noise from the aerator tower was the key concern, and that low frequency noise and vibration is no longer an issue. As set out in their respective statements of evidence, they differed on what the appropriate night-time noise level should be and in response to questions from the Panel they also differed on the practicality of further mitigation measures that could be taken to reduce noise levels from the aerator tower.

2.8.8 Jon Styles recommended the Panel have regard to the ability to subdivide the submitter's property, noting in the right conditions with current usage a constant hum may be heard inside new dwellings on the land at night because the current cowling does not provide any mitigation to new dwellings likely to be erected on the property. He stated, this would not occur indoors if a night-time 35 dB LAeq standard applied.

2.8.9 Brendon Shanks considered the 35 dB LAeq standard unprecedented for this type of facility noting, the nigh-time limit is designed to protect sleep amenity and 40 dB LAeq at source will result in less than 20 dB LAeq in bedroom at night with windows open. This is more than 10 dB LAeq below the level recommended by the World Health Organisation for good quality sleep.

2.8.10 Matt Bayliss added that he would be reluctant to increase the cowling on the tower as this can impact on the effectiveness of the treatment process. He also noted that until the volume of water passing through the aerator is increased it will not be known whether an increase in fan speed is required.

2.8.11 Tina Carlson-McColl considered the objective of the designation was to provide critical infrastructure for the community. In her view, there were no matters in RMA s6 relevant to the designation and under s7 only the quality of the environment and amenity values were relevant. She stated she accepted the assessment of the Operative Plan provisions in the Notice Requirement and considered the designation consistent with provisions of the Infrastructure and Urban Form and Development chapters of the Proposed Plan.

2.8.12 Brett Giddens stated he was relatively curious as to the legal status of the activities currently on the site and he was surprised no discussion had taken place on this despite his requests for feedback from the Council. In his view any existing use rights associated with the use of the land would have been extinguished when expansion was undertaken on the site. He considers this is relevant in considering the effects of the designation and determining what is the "existing environment".

2.8.13 Brett Giddens also expressed the view that the lack of detail of any further works proposed on the site prevented any expanded activity taking place.

2.8.14 Shelley Chadwick, legal Counsel for the Council, disagreed with Brett Giddens, noting the Outline Plan process was designed to enable changes and more intensive use of the site. She also referred to the various statutory provisions applying in this case, noting consideration of "other matters" enabled the Panel to consider the history of the site and the issues raised by Brett Giddens.

2.8.15 Andrea McMillan described previous noise issues experienced at their dwelling, describing a low frequency noise and vibration prior to remedial work being undertaken on the Water Treatment Facility site, and while noise from the site is currently acceptable, her and Tony Harpur are apprehensive once increased volumes of water are treated. She also expressed concern regarding the visible impact of the aeration tower and wanted landscaping undertaken to screen it. In response to questions from the Panel she indicated there was a potential for landscaping to be undertaken partly on their land and she would want herself and Tony to be consulted regarding this when a landscape plan is being prepared.

2.8.16 Jason Domigan in replying to issues raised at the hearing indicated a willingness to consult with the adjoining neighbours when landscaping is being considered. He also preferred the wording of the conditions relating to landscaping from Tina Carlson-McColl rather than those promoted by Brett Giddens. He did, however, accept it was appropriate to have a timeline for completing landscaping but did not believe reviews were necessary.

2.8.17 With regard to other Council designations Jason Domigan was not aware of any visual issues with the Hilbre and Mataura sites and sought removal of any landscape conditions from those sites.

2.9 Overview of Statutory Considerations

2.9.1 Tina Carlson-McColl in her s42A Report "Hearing Stream 5 Part 3: Designations" advised the Panel of the provisions of section 168A of the RMA as set out in paragraph 1.3.2 above.

2.9.3 The key focus of the submitters is the effects of the activities on the Water Treatment Facility site, being noise, light and visual impacts. These effects are considered in the next section of this Decision. Other matters the Panel considers relevant to s168A are as follows:

(a) As noted in paragraph 2.8.11 above, it was the view of Tina Carlson-McColl that there were no matters in RMA s6 relevant to the designation and under s7

only the quality of the environment and amenity values were relevant. The Panel agrees with her in this regard.

(b) With regard to the various documents listed in s168A(3)(a), the Panel considers the Operative and Proposed District Plans to be the only ones of relevance. Tina Carlson-McColl stated she accepted the assessment of the Operative Plan provisions in the Notice Requirement to be appropriate and considered the designation consistent with provisions of the Infrastructure and Urban Form and Development chapters of the Proposed District Plan.

(c) The Panel accepts the advice of Tina Carlson-McColl that the designation of the site was consistent with the provisions of the Operative Plan. The Panel however notes there are provisions in the PDP it should have regard to, as follows:

Infrastructure

INFR-O1 The operation, maintenance, upgrading and development of infrastructure is provided for to meet the needs of the community and businesses.

INFR-O3 Infrastructure or land reserved for future infrastructure, is protected from adverse effects of subdivision, use and development that is incompatible or may compromise the construction, maintenance, upgrade and use of infrastructure.

INFR-O4 Adverse effects from the construction, maintenance, upgrade and use of critical infrastructure are managed.

INFR-P1 Enable the construction, maintenance, upgrade and use of infrastructure.

INFR-P7 Manage the development of infrastructure, so that adverse effects on adjoining activities, sites, ecosystem health, and Ngāi Tahu cultural values are avoided, remedied or mitigated.

Noise

NOISE-O2 Activities do not generate unreasonable noise effects which adversely affect amenity values and health and wellbeing of people and communities.

NOISE-P2 Ensure the health and wellbeing of people and the community is protected by managing noise effects generated by an activity, having regard to:

1. the frequency, intensity, duration and offensiveness of the noise being generated;
2. whether the level, intensity, character and timing of effects are compatible with the character and amenity of the location and adjacent activities;
3. internalisation of noise effects to the extent practicable and to avoid or minimise conflict at and beyond site boundaries;
4. any impact on the health and well-being of the surrounding community (including sleep disturbance);
5. the adoption/implementation of best practicable options to minimise the adverse effects;
6. any positive effects associated with the activity;
7. the extent to which noise levels may compromise the ability of existing and anticipated activities to operate or establish in the future without undue constraints; and
8. the ability to avoid conflict with existing and anticipated noise sensitive activities.

General Residential Zone

GRZ-O3 The purpose and character of the residential zones is not compromised by non-residential activities.

GRZ-P9 Avoid activities that are incompatible with the character, qualities and purpose of the General Residential Zone.

2.9.4 Subject to the imposition of conditions, the Panel is satisfied that the designation is consistent with the objective and policy provisions of the PDP.

2.9.5 With regard to rules in the PDP, the Panel considers only those related to noise are relevant, and this is considered further below.

2.9.6 Brett Giddens was critical that no assessment of alternative sites has been undertaken. It is the view of the Panel that such an assessment is not required, being satisfied that the Council does have an interest in the land sufficient for undertaking the work and that it is not likely that the work will have a significant adverse effect on the environment. Further, the site has been used as a water treatment facility for many years, and relocation of the facility is neither practical nor necessary.

2.9.7 The Notice of Requirement did not include an explicit statement setting out the "objective" of the designation. Matt Bayliss in reply to a question from the Panel advised the purpose of the designation is to ensure the Council can improve, promote and protect public health within the District in accordance with section 23 of the Health Act 1956 and in the Panel's view as an objective, the designation is reasonably necessary to give effect to that objective.

2.9.8 In the context of "other matters" Shelley Chadwick submitted the status of activities currently on the site is a matter the Panel could consider if it is of a mind. Brett Giddens was of the view this is relevant in considering the effects of the designation and determining what is the "existing environment".

2.9.9 The approach of the Panel has been to consider the effects of the designation regardless of timeframe, with the view that if the environmental effects of the Water Treatment Facility on the surrounding environment could not be avoided, remedied or mitigated to an acceptable level then the requirement should be rejected.

2.9.10 The Panel was unsure whether it was being invited by Brett Giddens to determine the status of the expansion work that was undertaken in 2022. Regardless, the Panel declines to do so. It is the view of the Panel that it did not have sufficient information to reach an informed view. No details were provided outlining the history of the site, whether there were any previous resource consent or designations applying to the site. Nor did the Panel receive evidence assessing the rules in the Operative District Plan to demonstrate the activity was not permitted.

2.10 Environmental Effects of the Designation

Noise

2.10.1 The Panel was advised through the evidence, there are several sources of noise from activities undertaken at a water treatment facility, primarily associated with the movement and treatment of water, including pumps and the aeration of water. Vehicle movements on the site and mechanical repair and maintenance can also generate noise. Regardless of the source of the noise, the Panel considers that the emission of noise from the site should not exceed a level that interrupts sleep nor exceed what is appropriate for the amenity of the area. The topography of the site assists in this regard.

2.10.2 Having regard to the evidence, it is apparent that the night-time noise levels are critical. Rule 7.9(2)(b) of the Operative District Plan sets a limit of 40 dBA Leq between 10.00 p.m. and 7.00 a.m. measured within Residential Zones at any point within any other site. Standard NOISE-S1 in the PDP also adopts a limit of 40 dB LAeq between 10.00 p.m. and 7.00 a.m. measured and assessed at or within the boundary of any other site within the General Residential Zone. The Panel considers the measurement point of the PDP to be the more practical and easier to measure.

2.10.3 Brendon Shanks was of the view that 40 dB LAeq was the appropriate standard to adopt, being consistent with that applying to treatment facilities in other areas and would protect sleep amenity. Jon Styles, taking into account that noise from the site would be continuous, suggested that consideration could be given to 35 dB LAeq being the appropriate night-time standard. When asked what factors the Panel should have regard to in determining the nigh-time standard, Jon Styles responded that the Panel should consider what was appropriate for the amenity of the area.

2.10.4 On the basis of the evidence of Brendon Shanks and having regard to the amenity of the area, the Panel considers the appropriate night-time noise level to be 40 dB LAeq.

2.10.5 The two noise experts agreed that the aerator tower was the noise source of concern on the land of the adjoining submitters and the Panel understands that the key determinant of this is the speed of the fan. When Andrea McMillan spoke to the Panel she stated that the current level of noise at night was acceptable, but the concern was this would increase once the volume of water being treated at the site increased. Matt Bayliss advised the Panel that the optimum speed of the fan on the aeration unit could not be determined until the volume of water being treated increased. He stated the fan could operate at the existing level, even if sub-optimal, to ensure compliance with a 40 dB LAeq standard while additional remedial work was investigated and potentially implemented. Operating at a sub-optimal level would not compromise the volumes of water available for consumption as the Council would increase use of chemicals to achieve the required water quality standards.

2.10.6 The Panel was not aware of any opposition to the preparation of a noise management plan from the noise and planning experts and considers such a plan appropriate for the management of activities on the site.

Light

2.10.7 Currently, there is no adverse effects of light from the site during hours of darkness. However, the Panel considers it is appropriate to manage this potential adverse effect. There was agreement between Tina Carlson-McColl and Brett Giddens that any emission of artificial outdoor light shall comply with Rule LIGHT-R1 in the PDP. Arising from decisions on submissions that provision now reads:

1. Any light spill complies with LIGHT-S1; and
2. All artificial outdoor lighting is directed downward away from and/or screened from adjoining properties and roads and shielded from above to ensure that all light shines below the horizontal.
3. There is no external strobe, flashing or other intermittent lighting.

2.10.8 The relevant portion of Standard LIGHT-S1 for the General Residential Zone states:

> The maximum level of light spill from any site measured at or beyond the site boundary must not exceed 8 lux (in both the horizontal and vertical planes).

2.10.9 Brett Giddens requested that in addition to a condition referring to Rule LIGHT-R1, reference also be made to “direct light facing adjoining residential properties must not be installed”. Tina Carlson-McColl opposed this addition, stating reliance on Rule

LIGHT-R1 is sufficient. The Panel agrees with Brett Giddens on this issue while noting the amended rule in effect incorporates the addition he seeks. For simplicity, rather than referring to rules by reference, the Panel prefers adoption of a bespoke provision.

Visual Impacts

2.10.10 The Water Treatment Facility site is elevated above the surrounding land and the Panel considers it was chosen many years ago for that reason. It is zoned Residential in the Operative District Plan and General Residential in the PDP. Within both Plans the maximum height of structures allowed is 8 metres with a height plane of 35 degrees applying, commencing at 2.6 metres above ground level at the property boundary.

2.10.11 None of the evidence from the Council or submitters included plans showing the location and size of buildings on the site. From the site visit, the Panel determined the only structures near the boundary of the site are the now disused treatment facility building approximately 7 metres from the boundary and the current aeration tower which is approximately 4 metres high, situated approximately 10 metres from the boundary. These structures are elevated above other buildings and structures on the site. The Panel accepts the logic of locating an aeration tower on this elevated area, facilitating water dropping to a lower level. Notwithstanding the height of buildings permitted on the site, the Panel considers the visible effects of these non-residential utilitarian structures should be mitigated by suitable landscaping.

2.10.12 Tina Carlson-McColl and Brett Giddens agreed on the desirability of a landscape management plan but differed in the detail of an appropriate condition. The Panel has had regard to the recommendations made by each of them and arrived at what it considers a practical outcome.

2.11 Decision on Designation D10 East Gore Water Treatment and Pump Station

2.11.1 For the reasons set out in sections 2.9 and 2.10 of this Decision, Designation D10 East Gore Water Treatment and Pump Station is confirmed subject to conditions as set out below:

East Gore Water Treatment and Pump Station	
Designation unique identifier	GDC-10
Designation purpose	Public Utility – Water treatment Plant and Pump Station
Site identifier	Section 10 BLOCK XXIV TN OF East Gore Section 11 BLOCK XXIV TN OF East Gore
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	**Light** 1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 8 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting.

East Gore Water Treatment and Pump Station	
	Noise 4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) 7am to 10pm – 50 dB LAeq (b) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax When measured and assessed at or within the boundary of any other site. **Noise Management Plan** 5. Within six months of the designation being confirmed, or prior to water sourced from West Gore being treated at the site, whichever is the sooner, a Noise Management Plan must be prepared by an appropriately qualified and experienced person and must be certified by the Chief Executive of the Gore District Council. 6. The purpose of the Noise Management Plan is to always ensure compliance with Condition 4, except when testing of machinery takes places, and must include: (a) the timing and duration of testing (b) provision for the monitoring of noise levels at a frequency not exceeding two years (c) the location of noise measurement, taking into account the potential for development on adjoining land zoned for residential purposes and the location of any dwellings on that land. (d) provision for the reporting of test and monitoring results to adjoining property owners and occupiers, and to the Chief Executive of the Gore District Council. **Landscaping** 7. Within six months of the designation being confirmed a Landscape Plan shall be developed for the site by an appropriately qualified and experienced person and must be certified by the Chief Executive of the Gore District Council. 8. The purpose of the Landscape Plan is to mitigate where practical the visual effects of any buildings, other structures or earthworks undertaken on the site when viewed from surrounding properties and adjoining roads in the immediate vicinity, and must include: (a) details of the areas being subject to treatment, noting this may include vegetation and/or mounding (b) the species to be planted, together with their size when planted, and anticipated size after five years. 9. With the approval of the landowner(s) of contiguous land to the south, the Landscape Plan may include planting of immediately adjoining land outside of the designated site. 10. Prior to submitting the Landscape Plan to the Chief Executive of the Gore District Council for certification, landowners adjoining any areas to be landscaped shall have an opportunity to comment on the Landscape Plan, and the Chief Executive must have regard to those comments in determining whether to certify the Plan or request changes to it.

East Gore Water Treatment and Pump Station	
	11. The Landscape Plan must be implemented within two years of the designation being confirmed. 12. Any planting undertaken on the designated site that dies must be replaced. 13. Within three months of the second anniversary of landscaping being completed on the site a monitoring report must be submitted to the Chief Executive of the Gore District Council on the success or otherwise of the planting undertaken and its purpose. The Chief Executive may if they consider it appropriate require a review of the Landscape Plan at that time. 14. The Landscape Plan must be reviewed at intervals of five years after initial certification under Condition 7, or after review under Condition 13, whichever is the latter.
Additional Information	This site is located within the General Residential Zone

3 Other Designations of the Gore District Council

3.1 Carried Over Designations

3.1.1 Tina Carlson-McColl in her s42A Report to Hearings Stream 5 referred the Panel to the provisions of Clause 9(3) of Schedule 1 of the RMA that states:

> (3) Nothing in this clause shall allow the territorial authority to make a recommendation or decision in respect of any existing designations or heritage orders that are included without modification and on which no submissions are received.

3.1.2 Those designations of the Gore District Council carried over from the Operative Plan for which no decision is required are as follows:

- GDC-1 Coopers Wells Water Supply – Access
- GDC-2 Coopers Wells Water Supply – Water Supply Protection Area
- GDC-3 Coopers Wells Water Supply – Water Supply Operational Area
- GDC-4 Coopers Wells Water Supply – Emergency Take Utilities Route

3.2 New Designations

3.2.1 The following are new designations not included in the Operative District Plan.

- GDC-5 Jacobstown Wells Water Supply
- GDC-6 Mataura Water Supply Treatment Plant
- GDC-7 Mataura Wastewater Treatment Plant
- GDC-8 Gore Wastewater Treatment Site
- GDC-9 Waikaka Wastewater Site
- GDC-11 Hilbre Ave Water Supply Treatment
- GDC-12 Gore Transfer Station

3.2.2 Clause 9(2) of Schedule 1 of the RMA requires that decisions be issued regarding these designations. With one exception, no submissions have been lodged to any of these designations.

3.2.3 Submission 25.004 Peter Kempthorne opposed in part designation GDC-11 Hilbre Ave Water Supply Treatment requesting the Council to protect the water treatment plant infrastructure by establishing a buffer zone. The Panel considers that in part the intent of this submission point is to highlight an inconsistency in the approach to the

management of activities in the vicinity of the Council's water treatment facilities. Peter Kempthorne did not present any evidence or other material with regard to this submission. In Decision 23 General Residential Zone at paragraph 4.1.6 the Water Supply Treatment Buffer Areas are removed from the Plan. For the same reasons set out in that decision submission 25.004 Peter Kempthorne is rejected.

3.2.4 Tina Carlson-McColl recommended confirming the seven designations listed in paragraph 3.2.1 above subject to conditions. The Panel adopts the assessment and overall recommendation to confirm these designations for the reasons given in her s42A Report prepared for Hearing Stream 5. The Panel has however amended the recommended conditions, as set out below.

3.2.5 Jason Domigan, General Manager Critical Services, in an oral presentation to the Panel sought removal of the requirement to prepare and implement a Landscape Plan for Designations GDC-6 Mataura Water Supply Treatment Site and GDC-11 Hilbre Avenue Water Supply Treatment Site on the basis that there are no concerns related to the visual impacts of these facilities. The Panel agrees with Jason Domigan and notes should further development take place at these sites then an Outline Plan will be required. RMA s176A(3) specifies the following matters that are to be shown on an Outline Plan:

(a) the height, shape, and bulk of the public work, project, or work; and

(b) the location on the site of the public work, project, or work; and

(c) the likely finished contour of the site; and

(d) the vehicular access, circulation, and the provision for parking; and

(e) the landscaping proposed; and

(f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment.

3.2.6 The Council under its regulatory functions may seek changes to matters listed and detail shown on the Outline Plan.

3.2.7 As the Hilbre Avenue Water Supply Treatment Site is located within a fully developed residential area, the expectation of the Panel is that any redevelopment of that site, including associated landscaping, is designed in consultation with adjoining landowners and occupiers.

3.2.8 The Panel considered the conditions recommended by Tina Carlson-McColl noting the general nature of the wording used, referring to rules and standards in the PDP. The Panel is of the view that more explicit wording is required as the content and numbering of rules in the District Plan may change over time.

3.2.9 For the reasons given above, it is the Decision of the Panel to confirm the new designations of the Gore District Council as follows:

Jacobstown Wells Water Supply	
Designation unique identifier	GDC-5
Designation purpose	Public Utility - to provide for water supply and treatment
Site identifier	124B Hokonui Drive Lot 2 DP 3940
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary

Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity shall not exceed: (a) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the General Rural Zone (i) 7am to 10pm – 55 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax (b) Measured at the boundary of the General Residential Zone or within any site in that Zone (i) 7am to 10pm – 50 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax
Additional Information	This site is located within the General Rural Zone

Mataura Water Supply Treatment Site	
Designation unique identifier	GDC-6
Designation purpose	Public Utility – to provide for water supply and treatment
Site identifier	Doctors Road Lot 5 DP 13394
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity shall not exceed (a) 7am to 10pm – 50 dB LAeq (b) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax When measured and assessed at or within the boundary of any other site.
Additional Information	This site is located within the Large Lot Residential Zone

Mataura Wastewater Treatment Site	
Designation unique identifier	GDC-7
Designation purpose	Public Utility – *wastewater* treatment plant
Site identifier	Lot 1 DP 393192 Lot 1 DP 11205
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the General Rural Zone (i) 7am to 10pm – 55 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax (b) Measured at or within the boundary of any site in the General Industrial Zone and Rural Industrial Precinct (PREC13) (i) At any time –70 dB LAeq
Additional Information	This site is located within the General Rural Zone

Gore Wastewater Treatment Site	
Designation unique identifier	GDC-8
Designation purpose	Public Utility – *wastewater* treatment plant
Site identifier	23 Grasslands Road Lot 8 Block II DP 171 Part Lot 9 Block DP 171 Part Lot 10 Block II DP 171 Part Lot 11 Block II DP 171 Part Section 136 Hokonui SD
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes).

	2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the General Rural Zone (i) 7am to 10pm – 55 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax (b) Measured at the boundary of the General Residential Zone or within any site in that Zone (i) 7am to 10pm – 50 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax.
Additional Information	This site is located within the General Rural Zone

Waikaka Wastewater Treatment Site	
Designation unique identifier	GDC-9
Designation purpose	Public Utility – *wastewater* treatment plant
Site identifier	Waikaka Road Section 1 SO 10924
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the General Rural Zone (i) 7am to 10pm – 55 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax (b) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the Settlement Zone or Rural Lifestyle Zone: (i) 7am to 10pm – 50 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax

Additional Information	This site is located within the General Rural Zone

Hilbre Ave Water Supply Treatment	
Designation unique identifier	GDC-11
Designation purpose	Public Utility - Water Supply and Treatment Plant
Site identifier	15 Hilbre Ave, Gore Lot 4 DP 324026
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 8 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting. 4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) 7am to 10pm – 50 dB LAeq (b) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax When measured and assessed at or within the boundary of any other site.
Additional Information	This site is located within the General Residential Zone

Gore Transfer Station	
Designation unique identifier	GDC-12
Designation purpose	Public Utility – Waste Transfer Station
Site identifier	Toronto Street Lot 1 DP 346018
Lapse date	Given effect to (no lapse date)
Designation hierarchy under section 177 of the RMA	Primary
Conditions	1. The maximum level of light spill from the site measured at or beyond the site boundary must not exceed 5 lux (in both the horizontal and vertical planes). 2. Any artificial outdoor lighting must be: (a) directed away from adjoining properties and roads; and (b) shielded from above to ensure that all light shines below the horizontal. 3. There is no external strobe, flashing or other intermittent lighting.

	4. The Noise (rating) level and maximum noise level arising from any activity must not exceed (a) Measured at the notional boundary of any dwelling or other noise sensitive activity located within the General Rural Zone (i) 7am to 10pm – 55 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 75 dB LAFmax (b) Measured at the boundary of the General Residential Zone or within any site in that Zone (i) 7am to 10pm – 50 dB LAeq (ii) 10pm to 7am – 40 dB LAeq and 70 dB LAFmax
Additional Information	This site is located within the General Rural Zone

Keith Hovell
Panel Chair