

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	LU23078
Applicant	Travis and Gemma Bastiaansen
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to operate a hair dressing business within an existing residential unit.
Location	7 Margaret Street, Gore
Legal Description	Lot 1 DP 9483 and Lot 2 DP 13048
Activity Status	Discretionary
Decision Date	1 November 2023

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**) the application will be processed on a **non-notified** basis given the findings of Section 5 of the Section 95A and 95B report. This decision is made by Katrina Ellis, on 1 November 2023 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104B of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Katrina Ellis, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

Consent is sought to operate a hair dressing business within an existing double storey residential unit at 7 Margaret Street. The unit will be retained for residential use, with minor external alterations proposed. A sliding door is to be installed on the north wall to allow access to the proposed salon via the garden. No additions to the residential unit are proposed. The ground floor contains a double garage, a laundry room, and a basement. The salon will be located on the ground floor in the northwest corner situated behind the double garage. Internal alterations are proposed to include water and drainage. Off-street parking in front of the attached garage is proposed.

The salon will include three hair stations, each consisting of a chair and mirror for clients to be based, a hair washing basin, and a waiting area. Having three salon chairs will provide the applicant with the ability to use a clean station if there are bookings back-to-back. It also provides the option for clients to have their children seated close by during appointments. In the adjacent room, it will contain a fridge, colour station, kitchenette, washing machine and dryer.

Home occupation permits a business to be undertaken from a residential unit, providing it does not involve sales or provision of services from the site; and is conducted inside the hours of 8:00am – 5:00pm Monday to Friday, with noise not being discernible from other sites. The proposal is providing a service to clients on site and will occur outside of the anticipated hours under the Operative District Plan (ODP). As such the activity is a commercial activity, as it does not meet the ODP definition of Home Occupation.

The applicant is the owner of the residence and business. The business will operate as follows:

- Monday to Friday – 9:00am – 5:00pm; Thursday 9:00am – 8:00pm
- Clients will be limited to a maximum of two at any one time. For clarity, there will only be one hairdresser.
- The business will be operated on an appointment only basis, through online booking.

The salon will be accessed by clients using a side footpath along the western wall of the residential unit and through a sliding door from the off-street parking space located at the south side of the residential unit as indicated by figure 1 below.

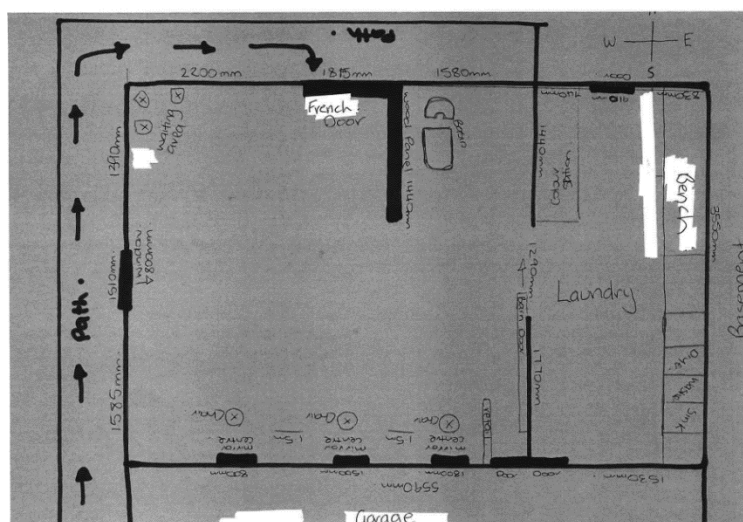


Figure 1: Proposed layout and access of hair salon (Source: Applicant Application)

2. SITE DESCRIPTION

The subject site is located at 7 Margaret Street, Gore legally known as Lot 1 DP 9483 and Lot 2 DP 13048, which are held in a single Record of Title SL10C/159, with an area of 1712m². The site is flat and contains an existing double storey residential dwelling and attached garage. The dwelling has frontage to Margaret Street, with a double driveway that accesses the double garage located on the ground floor. Established trees and garden surround the site to the north, west and east of the property. The applicants own the land to the west of the subject site (Lot 11 DP 9411). This is currently vacant land, established as part of the garden for the residential dwelling with vegetation surrounding the boundaries.

The site is zoned Residential A under the Gore District Plan. The surrounding environment is a well-established residential area, consisting of residential dwellings of similar character down a short urban street. Margaret Street provides throughfare connection to the adjoining residential streets, Koa Street and Kakapo Street. Located in the surrounding residential area is a high school (St Peters College) and the Southern Institute of Technology.

The Council mapping system which sources information from Environment Southland does not identify the site as subject to any risk of flooding and identifies the site's liquefaction risk as negligible. The site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site.

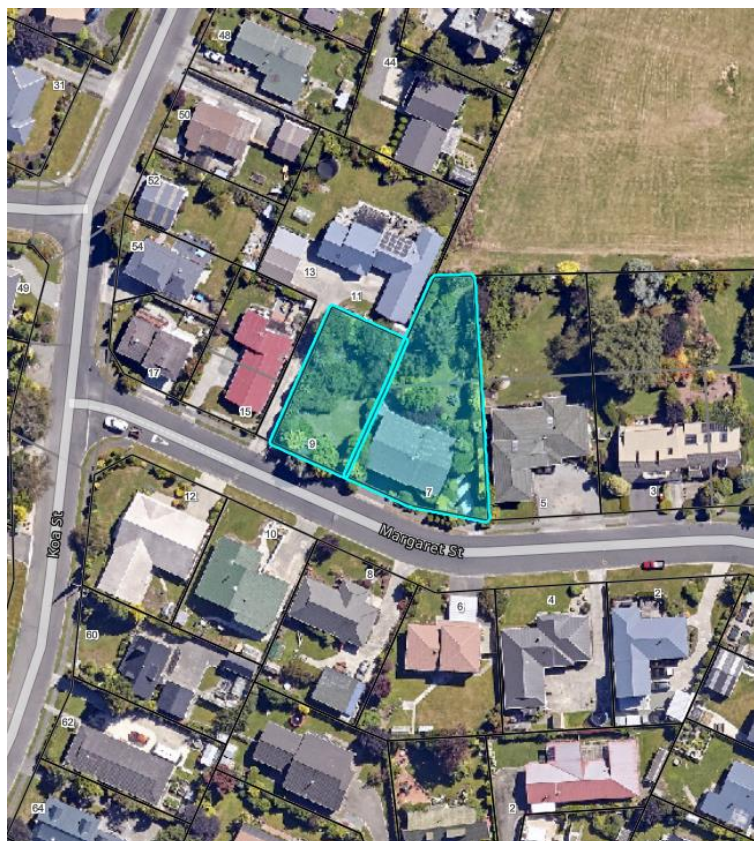


Figure 2: Aerial photo of subject site highlighted in blue (source: ArcGIS Map)

3. ACTIVITY STATUS

3.1 Gore District Plan

The site is zoned Residential A in the Gore District Plan and the proposed activity requires resource consent under the District Plan for the following reason:

- A **discretionary** activity resource consent pursuant to Rule 4.2.4(2) as the proposed hairdressing service is a commercial activity which is not listed as a permitted, controlled, discretionary, non-complying or prohibited activity under Rule 4.2.1 of the Operative District Plan for the Residential A Zone.

3.2 National Environmental Standard for Assessing Contaminants in Soil to Protect Human Health 2011 (“NES-CS”)

The applicant has checked Council records and confirmed there is no HAIL activity. Therefore, it is considered that the NES-CS does not apply.

3.3 Activity Status Summary

Overall, the application is being considered and processed as a **discretionary** activity under the District Plan.

4. NOTIFICATION ASSESSMENT

Sections 95A – 95F (inclusive) of the Resource Management Act 1991 (‘RMA’) set out the steps the Council is required to take in determining whether or not to publicly notify an application or notify on a limited basis.

4.1 Public notification – Section 95A

In accordance with section 95A, the following steps have been followed to determine whether to publicly notify the resource consent application:

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

- The applicant has not requested public notification.
- Public notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA.
- The application does not involve exchange to recreational reserve land under section 15AA of the Reserves Act 1977.

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are not rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
 - a controlled activity; or
 - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary, or non-complying.

Step 3 – Public notification is required in certain circumstances

- There are no rules in a plan or National Environmental Standard that require notification.
- A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor. An assessment in this respect is undertaken as follows:

The following effects must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land.
- Trade competition and the effects of trade competition.
- Any persons that have provided their written approval and as such adverse effects on these parties have been disregarded.

Written Approval/s

The following written approvals have been provided:

Person (owner/occupier)	Address (location in respect of subject site)
Marleen and Justin Cavanagh (owners)	6 Margaret Street, Gore, opposite the road from the subject site, to the south
Andrea and Gregory Caughey (owners)	4 Margaret Street, Gore, opposite the road from the subject site, to the south
Juliette Robison and Murray Duncan (owners)	5 Margaret Street, Gore, adjoining the subject site to the east.

Written approval was provided by one of the owners of 10 Margaret Street, however not all of the complete form was submitted and therefore could not be regarded as an affected parties approval.

The effects on the owners and occupiers of this property are assessed further below under the s 95B assessment.

The following effects may be disregarded:

- An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is as follows:

Permitted Baseline

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect.

Home occupation is a permitted activity under Rule 4.2.1(2)(e) of the Operative District Plan. This is provided that the running of a business, profession, craft, or hobby which is undertaken from a site used primarily as a residential unit by one or more persons living on that site and:

- all aspects of the activity, including the storage of any materials or goods, dismantling, repairing, or processing is contained within the dwelling or any accessory building on the site;
- involves no sales from the site other than by order, or provision of services on the site;
- employs no more than one person residing elsewhere than on the site;
- no noise associated with the home occupation activity shall not be discernible from other sites on any Sunday, any public holiday, outside the hours of 8:00am -5:00pm Monday to Friday or 8:00am – 1:00pm Saturday.

It is a permitted activity to operate a business from a residential unit on a site providing it does not involve provision of services and occurs within the permitted hours between 8:00am -5:00pm Monday to Friday. In this proposal the hair salon is a business that operates from a residential unit, that offers a service to clients and operates past the permitted timeframe. The permitted baseline has relevance to this application and is applied to the land use assessment below.

Character and Amenity

The surrounding environment is residential in nature. The proposed hair salon will have operation hours from 9:00am to 5:00pm Monday to Friday, with an additional late night on the Thursday till 8:00pm. The applicant has stated they do not intend to work these full hours as it is anticipated there will be a maximum of 25 appointments a week spread over the five days. The hours proposed allows the hairdresser and clients to have flexibility for appointments.

The salon being located inside a room in the north-west corner of the dwelling, ensures that it is furthest away from the road frontage of Margaret Street. With the exception of cars parking and people coming to/from the site, having a business operating inside will not be noticeable from Margaret Street and the wider environment.

A small number of clients are expected during a day at the salon, with no more than 25 appointments anticipated a week. There will only be two clients maximum at the hair salon at a time (plus their children in instances where clients bring them) with two off street parks available. Due to the small scale of the proposal, additional vehicle movements from 7 Margaret Street are unlikely to be noticeable and adverse effects will be less than minor on the existing character and amenity of Margaret Street.

Overall, adverse characters effects on residential character and amenity are considered to be less than minor.

Noise

The hair salon is located in the north-west corner of the residential unit, away from the road frontage and immediate neighbours. The room backs onto a vacant section owned by the applicants to the north and west. The applicant has advised that the salon will be double glazed. It is understood that double glazing is required under the Building Act, and as such no consent conditions are considered necessary to ensure this. The separation distance and proposed double glazing provide mitigation factors that will help reduce any associated noise that may arise from the salon to the wider surrounding environment.

Due to the location, nature, and scale of the activity, as well as the fact the activity will happen inside and with double glazed doors and windows, the adverse effects from the noise of the salon will be less than minor on the surrounding environment.

Traffic

As there will be no staff coming to the site, and a maximum of two clients visiting the site at any one time, the associated traffic generated from the clients coming to and from the hair salon will be minimal. Margaret Street, although a short residential street servicing a small number of residential units, acts as a connectivity route for other surrounding residential streets in the immediate environment. Therefore, additional traffic movement generated from the hair salon during the operating hours will not be a noticeable increase to the immediate environment.

There is sufficient onsite parking available for both residents, staff, and clients so as to avoid additional street parking and adversely affecting residential amenity. Based on an anticipated maximum of 25 clients per week, the maximum vehicle movement anticipated from this salon will be no more than 50 vehicle movements per from clients. Margaret Street has a wide road corridor built that allows ample space for traffic bypassing and cars to park.

Based on the above, the adverse effects from traffic associated with the salon will be less than minor on the surrounding environment.

Conclusion: Effects On The Environment

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed activity will not have adverse effects on the environment that are more than minor.

Step 4 – Public Notification in Special circumstances

- There are no special circumstances that warrant public notification.

4.2 Limited notification – Section 95B

In accordance with section 95B, the following steps have been followed to determine whether to give limited notification of the application:

Step 1 – Certain affected groups or persons must be notified

- There are no protected customary rights groups or customary marine title groups affected by the proposed.

- The proposal is not on or adjacent to, and will not affect, land that is the subject of a statutory acknowledgment.

Step 2 – Limited notification precluded

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.
- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

Step 3 – Certain other affected persons must be notified

- Under Step 3, if the proposal is a boundary activity, only the owner/occupier of the infringed boundary can be considered. The activity is not a boundary activity.
- For any other activity, a consent authority must notify an application on any person, if notification is not precluded by Step 2, and the consent authority decides, in accordance with s95E, that the proposed activity will have or is likely to have adverse effects on that person that are minor or more than minor.

An assessment in this respect is therefore undertaken as follows:

Considerations in assessing adverse effects on persons under s95E

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

Assessment: Effects on Persons

Taking into account the exclusions in sections 95E, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor.



Figure 3: Surrounding neighbours to the subject site. Purple indicates APAs provided by owners of the site, orange indicates adjacent neighbours, and blue indicates applicant's land. (Source: ArcGIS Maps)

Effects on persons who have provided written approval have not been assessed. As the applicant owns 9 Margaret Street, written approval is inherent, and as such effects on the applicant as the owner of that property also disregarded.

15 Margaret Street

This property is separated from the subject site by a driveway and the vacant lot owned by the applicants. Due to the separation distance from the subject site, the scale and context of the proposal, being a small-scale activity and operating within an established residential dwelling, adverse effects will be less than minor on the owners and occupiers of this property.

11-13 Margaret Street

This adjoining property is located north-west of the subject site. Due to the size of the subject site, the proposed hair salon room is approximately 20m from this boundary. Due to the separation distance from the subject site, the scale and context of the proposal, being a small-scale activity, and operating within an established residential dwelling, adverse effects will be less than minor on the owners and occupiers of this property.

8 and 10 Margaret Street

These properties are located across the road from the subject site. Due to the separation distance afforded by the wide road reserve, the scale and context of the proposal, being a small-scale activity, adverse effects will be less than minor on the owners and occupiers of this property.

2 and 3 Margaret Street

These properties are located east of the subject site, with residential units separating these properties from the proposed hair salon. This creates a spatial, visual and noise barrier to the

subject site. Due to the separation distance, the scale and context of the proposal, being a small-scale activity, adverse effects will be less than minor on the owners and occupiers of this property.

Conclusions: Effects on Persons

In terms of section 95E of the RMA, and on the basis of the above assessment, no person is considered to be adversely affected.

Step 4 – Special Circumstances for Limited Notification

- There are no special circumstances that warrant limited notification of the application.

5. DECISION PURSUANT TO S95A AND S95B OF THE RMA

For the reasons set out above, under s95A and s95B of the RMA, the application is to be processed on a non-notified basis.

6. SECTION 104 ASSESSMENT

6.1 Matters for Consideration

This application must be considered in terms of Section 104 of the RMA.

Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) any relevant provisions of:*
 - (i) A national environmental standard;*
 - (ii) other regulations;*
 - (iii) a national policy statement;*
 - (iv) a New Zealand coastal policy statement;*
 - (v) a regional policy statement or proposed regional policy statement;*
 - (vi) a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy, or mitigate adverse effects.

6.3 Relevant Provisions

District Plan

The relevant operative objectives and policies are contained within Chapter 4 of the District Plan.

3.3 Objectives

(1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area.

(2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality.

3.4 Policies

(1) Establish zones that reflect the characteristics and amenity values of the area.

(2) Control the adverse effects of land use activities on the environment

The establishment of a hair salon in an existing residential unit will not alter the amenity currently existing in the residential area. The activity will be undertaken in a residential unit, setback from surrounding neighbouring properties. The scale of the proposed activity does not adversely affect the characteristics and amenity values of the locality. In this respect it is compatible with the residential characteristics of the locality. The application is considered to be consistent with the objectives and policies of the District Plan.

7. PART 2 OF THE RMA

The purpose of the RMA is to promote the sustainable management of natural and physical resources.

The proposed activity occurring on the subject site promotes sustainable management of natural and physical resources as it allows the community of Gore to be provided with a business that ensures social and cultural well-being that promotes health and well-being of the local community.

Overall, the proposal is considered to meet the purpose and principles of the RMA.

8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B of the RMA, consent is **granted** to establish and operate a hairdressing business within the existing residential unit at 7 Margaret Street, subject to the following conditions imposed pursuant to Section 108 of the RMA:

Consent Conditions

1. The proposal shall be undertaken in general accordance with the application made to the Council on the 02.10.2023 and held electronically by Council under file reference LU 23078.
2. Operating hours for the activity are restricted as follows:
 - Monday 9:00am – 5:00pm

- Tuesday 9:00am – 5:00pm
- Wednesday 9:00am – 5:00pm
- Thursday 9:00am – 8:00pm
- Friday 9:00am – 5:00pm

There shall be no clients to the site in the weekend or public holidays.

3. A maximum of two (2) clients at a time is permitted.
4. A maximum of 25 clients per week is permitted.

Advice Notes

1. This resource consent does not constitute a Building Consent under the Building Act 2004. You should consult with the Building Control Manager of the Gore District Council to obtain information on any Building Consents required to undertake development.
2. A current Trade Waste Permit should be held at all times whilst the hairdressing business is in operation. On-going compliance with Trade Waste requirements is the responsibility of the consent holder. The Consent holder shall notify Council if the quantity or nature of the discharge changes significantly.
3. The property will be required to have a water meter and if the use is more than 18m³ per month then water will be charged in line with the Council fees and charges.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

The Council will contact you in due course to arrange the required monitoring. The Monitoring Officers time will be charged to the consent holder. It is suggested that you contact the Council if you intend to delay implementation of this consent or if all conditions have been met.

This resource consent is not a building consent granted under the Building Act 2004. A building consent must be obtained before construction can begin.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of section 125 of the RMA.

If you have any enquiries, please contact the duty planner on phone (03) 209 0330 or email planning@goredc.govt.nz.

Prepared by



Bridget Sim
Graduate Planner

Decision made by



Katrina Ellis
Delegated Authority

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS

