

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	LU24034
Applicant	Shane and Hayley Knapp Limited
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to erect a structure within the Mataura River Floodway
Location	23 Nelson Street, East Gore
Legal Description	Sections 9 & 10 Block XV TN OF East Gore, held in Records of Title SL8B/988 and SL8B/989
Activity Status	Restricted Discretionary
Decision Date	23 August 2024

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 Penny Weng, on 23 August 2024 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104C 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 Penny Weng, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

Consent is sought to erect a structure, being a new residential dwelling at 23 Nelson Street. The western portion of the site is identified as being within the Mataura River Floodway under the Council's mapping system, which sources information from Environment Southland (see Figure 1).

The proposed dwelling will span across the two allotments, and these two allotments have a s75 certificate across both of the titles due to this. The site will be accessed from Nelson Street through an existing access that will be upgraded. The dwelling will be serviced from the Council's reticulated services in River Terrace and Nelson Street.

The proposed dwelling is proposed to sit on the elevated eastern part of the site and have a minimum finished floor level of 79.90m NZVD 2016.

2. SITE DESCRIPTION

The parcels of land subject to this proposal are legally referred to as Sections 9 & 10 Block XV TN OF East Gore, which are recognised as 23 Nelson Street. The site is situated adjacent to the eastern Mataura River bank within the Residential A Zone of East Gore. The site was originally surveyed in 1877 and has not since been developed.

The eastern proportion of the site consists of a flat area of land that is elevated and overlooks the Mataura River and the Waimea Plains. The site extends westwards down a natural bank towards the Mataura River. The lower (western) parts of the site are within the Mataura River floodway due to the topography of the land descending down a towards the river. Due to the topography of the site, the lower sections of the site were inundated during the flood event in February 2020.

In 2020, a combined subdivision and land use consent was issued by Gore District Council (SC 2020/41 and LU 2020/42) authorising a two lot residential subdivision on Section 9 Block XV TN OG East Gore. Lot 1 was located in the lower half of the site and therefore was mostly located within the Mataura River Floodway mapping. Environment Southland provided comments during this time in regard to future development on the lot. The recommendations from Environment Southland were included as a consent notice condition on the title for the future lot. Section 9 Block XV TN OG East Gore has not gone through the certification process for the subdivision and the site remains as the two individual allotments.

The Council's mapping system, which sources information from Environment Southland, identifies the entire site as 'negligible' liquefaction risk.

The site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site.



Figure 1: Subject site with the Hazard layer 'Mataura River Floodway' overlay

3. ACTIVITY STATUS

3.1 Gore District Plan

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

- A **restricted discretionary** activity pursuant to Rule 4A.9 as it is proposed to erect a structure (residential dwelling) within the area shown as the 'Mataura River Floodway'. Council's discretion is restricted to the adverse effects of natural hazards on or by the proposed activity.

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

Based on the applicant's review of Council records, the piece of land to which this application relates is not a HAIL site, and therefore the NES-CS does not apply.

3.3 Activity Status Summary

Overall, the application is being considered and processed as a **restricted 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 no 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

No written approvals have been provided.

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. In this case, it is permitted to build a residential dwelling that meets bulk and location standards of the Residential A Zone. The proposed dwelling complies with all the relevant rules for the Residential A Zone.

The adverse effects of natural hazards on or by the proposed activity.

The proposal will result in a dwelling to be built within part of the site that has been identified in the Maitara River Floodway. The building is to be built on the higher proportion of the site, elevated above the river plain. The lowest natural ground level that the dwelling FFL will be is 79.0m New Zealand Vertical Datum 2016 (NZVD 2016).

Environment Southland was consulted by the Applicant and has provided a response on the matter, noting that their comments from the resource consent submitted to Council in 2020, has not changed.

Environment Southland was not opposed to the proposed subdivision and land development in 2020 and required that a consent notice be placed on the new Lot 1 title as follows:

1. *the underside of the floor slab, or support beams for the floor, of any dwelling erected on the proposed Lot 1 is to have a minimum level of 75.91 metres NZVD 2016;*
2. *no more than one row of support poles for any dwelling/deck erected on the proposed Lot 1 is to be located on natural ground below 75.91 metres NZVD 2016 and the row of support poles is to be approximately oriented parallel to the Maitara River; and*
3. *no support poles for any dwelling/deck erected on the proposed Lot 1 are to be located on natural ground below 73.91 NZVD 2016.*

The level of 75.91 metres NZVD specified in Conditions 1 and 2 is derived from the existing stopbank level of 75.21 metre NZVD 2016, plus the proposed 0.50 metre increase in the height of the stopbank, plus a freeboard of 0.20 metre. The level of 73.91 specified in Condition 3 is the calculated February 2020 flood level.

The NZVD 2016 system is still used today.

Gavin Gilder (Environment Southland Team Leader Policy and Planning) reviewed the application provided. He identified that the raising of the stopbank, as discussed above in 2020, did not proceed as it was decided that flood modelling to confirm the current standard of protection was required before any decisions on potential upgrades were made. Mr. Gilder confirmed that with the proposed dwelling being above 79.0 metres NZVD 2016, Environment Southland has no concerns with the proposal from a flood risk perspective.

Mr. Gilder also identified that due to the site being partially mapped as floodway in Appendix 2 of the Southland Flood Control and Drainage Management Bylaw 2020, an Authority under the Bylaw would be required from Environment Southland for various activities within the floodway including earthworks, the construction of structures, planting of vegetation and storage of items.

A building consent (BC 211185) for the site has been issued by the Gore District Council. The 3 Waters, Rooding and Building departments have all commented on the proposal. Matters relating to the building and services have been resolved during this process and therefore does not require any further comment.

Overall, it is considered that the adverse effects of natural hazards on or by the proposed activity will be no more than minor.

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 adjacent to the Mataura River which is a statutory acknowledgment area.

Hokonui Rūnanga Inc have been notified of the application and comment that as proposed dwelling will be situated on higher elevated portions of the site, any potential impacts on the Mataura River Floodway and the eastern riverbank will be minimised.

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 2: Surrounding Neighbouring Properties

The adverse effects of a building proposed to be built within the Mataura River Floodway will have less than minor effects on the surrounding neighbouring properties for the following reasons.

The proposed building, although being located in an identified inundation hazard, will be located on the most elevated section of the site and will be 4m above the minimum floor level that Environment Southland requires. The applicant has shown that the objectives and policies of the Natural Hazards Chapter have been included in the proposal to ensure minimal risk to adjacent people and property.

A residential dwelling is permitted in the Residential A Zone provided it meets the bulk and location standards of the District Plan. The proposed building meets these requirements and is thus a permitted activity and only requires consent due to the location of the site being within the Mataura River Floodplain. The physical and amenity effects of the proposed dwelling are less than minor upon the adjacent persons.

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

Operative District Plan

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

Chapter 4A

Objective (1) Ensure the public is aware of the likelihood and consequences of natural and man-made hazards within the District.

Objective (2) Minimise the risk to people and property from inundation.

Policy (1) Promote public awareness of natural and man-made hazards.

- Policy (2) On sites subject to actual or potential flooding, promote:*
- (a) identification and use of elevated ground for those activities that could be adversely affected by flooding; and*
 - (b) elevated floor levels within any buildings.*
 - (d) in respect of areas of the District subject to actual or potential inundation as shown on the District Plan maps, other than those described in (b) and (c) above, require any buildings accommodating people to be built with their floor levels at least 600 mm above the level of past flooding or for sites for which there is no record of past flooding, 600 mm above ground level.*

Chapter 4A objectives and policies ensures that the public is aware of the likelihood and consequences of natural hazards within the District and to minimise the risk of these hazards such as inundation to people and property. Although the proposal will be located within an identified mapping of the Mataura River Floodway, the applicant has shown that the building will be on elevated ground, with the FFL of the proposed dwelling to be 79.9m NZVD 2016, being elevated higher than the recommended FFL by Environment Southland. As such, the proposal is considered to be consistent with the objectives and policies of Chapter 4A of the Operative Gore District Plan.

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 26 October 2023. The further submission period closed on 12 April 2024. As the rules that have immediate legal effect are not relevant to this proposal, it is unnecessary to apply any weighting to the Proposed District Plan at present time.

7. PART 2 OF THE RMA

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

The proposed building takes into account Part 2 of the RMA as the activity will enable residential activities to occur on the site, enhancing the Residential Zone, providing for social and economic wellbeing of the Applicant. The site does not contain any matters of national importance under s6 and particular regard has been given to s7 in terms of terms of maintaining and enhancing the existing residential environment. This site is not within any known heritage sites and although located adjacent to the Mataura River, Hokonui Rūnanga Inc has identified that they have no major concerns with the proposal. The proposal is not considered to be inconsistent with the principles of the Treaty of Waitangi.

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

8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, consent is **granted** to build a structure within the Mataura River Floodway subject to the following conditions imposed pursuant to Section 108 of the RMA:

Consent Conditions

1. The proposal must be undertaken generally in accordance with the application as submitted to the Council on the 14 August 2024 and the following plans:

- Site Plan A01 Rev- 1, drawn by Husk Design, dated 21-03-2024
- Floor Plan A01 Rev- 1, drawn by Husk Design, dated 21-03-2024
- Elevation Plan A01 Rev- 1, drawn by Husk Design, dated 21-03-2024

These plans are attached as Appendix A.

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. The Gore District Plan and Gore District Council Subdivision and Development Bylaw 2019 sets out standards and requirements, which are required to be met in constructing any buildings.
3. The consent holder must apply for authority under the Southland Flood Control and Drainage Management Bylaw 2020, from Environment Southland for various activities within the floodway including earthworks, the construction of structures, planting of vegetation and storage of items.

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
Planner

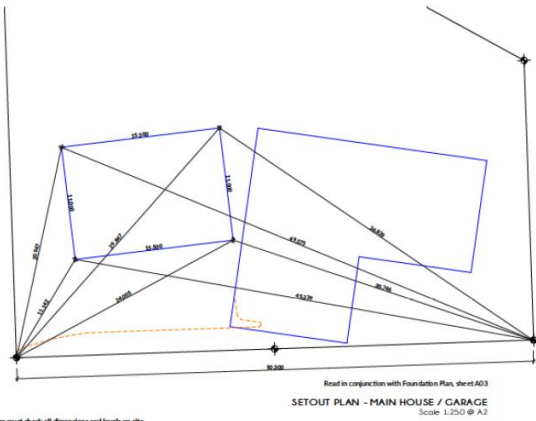
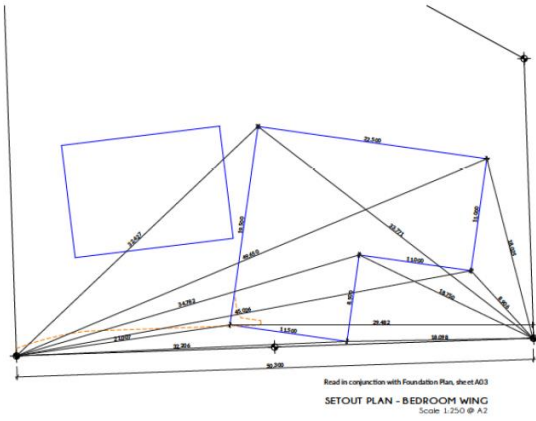
Decision made by



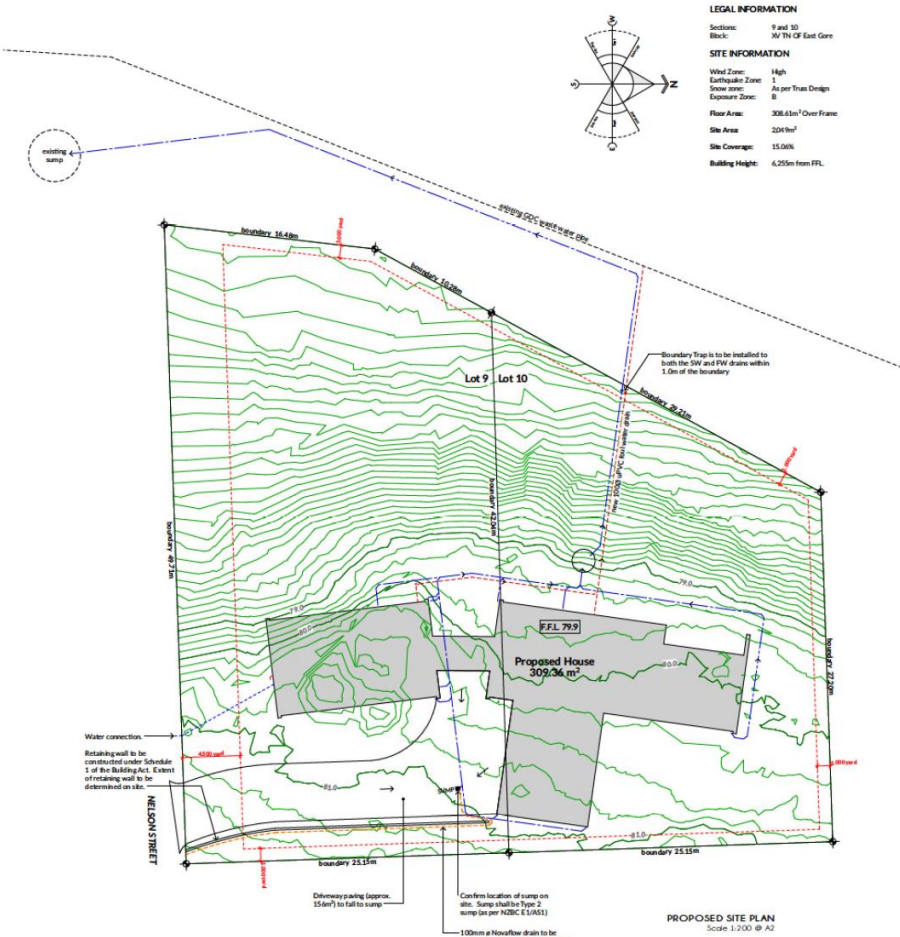
Penny Weng
Delegate

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS



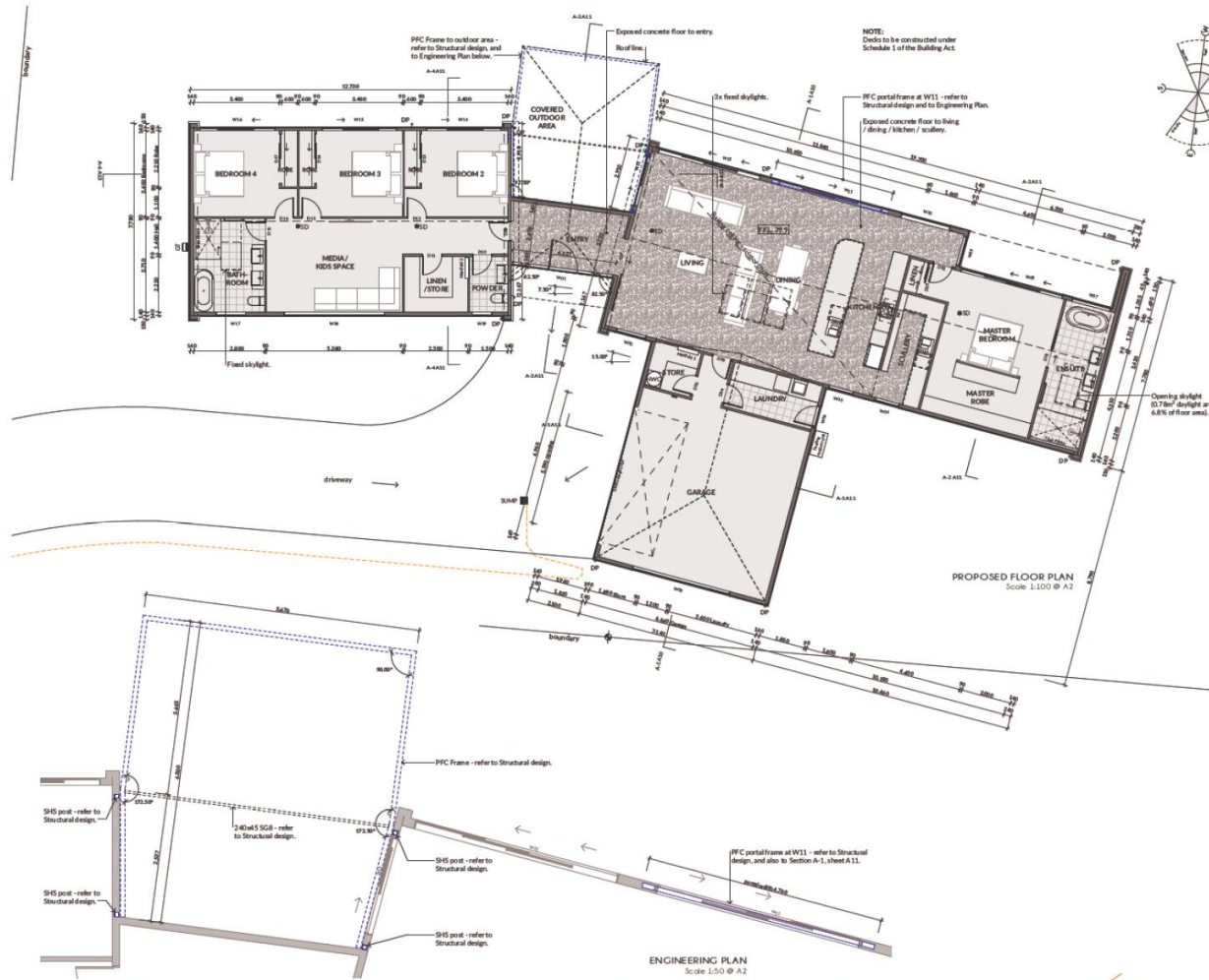
Contractor must check all dimensions and levels on site prior to construction.
 The provisions of the New Zealand Building Code override anything that is inconsistent in these specifications and plans and must be complied with.



LEGAL INFORMATION
 Section: 9 and 10
 Block: 367 N of East Gore

SITE INFORMATION
 Wind Zone: High
 Earthquake Zone: 1
 Snow Area: As per Trans Design
 Exposure Zone: B
 Floor Area: 308.61m² Over Frame
 Site Area: 2049m²
 Site Coverage: 15.06%
 Building Height: 4.255m from FFL

<p>Site # 123456789 Area Zone: High Earthquake Zone: 1 Convention Zone: B Snow Zone: Trans Designer</p>	<p>Date: 22.03.2024 Date: 21.03.2024 Drawn: JS Scale: As Shown</p>	<p>SHANE KNAPP BUILDING 123 Nelson Street, East Gore</p>	<p>Shane + Hayley Knapp 23 Nelson Street Gore</p>	<p>12.04.2024 Rev: 1 Issue for Building Consent (B)</p>	<p>Proposed Residence HUSK DESIGN + SMART</p>	<p>12.04.2024 Rev: 1 Issue for Building Consent (B)</p>	<p>Site Plan A01 Rev # - 1</p>
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- LEGEND**
- mm millimeter
 - mm ID millimeter diameter
 - DP down pipe
 - HT hose tap
 - FRSE James Hardie Fibrecrete 1000J Insulated outdoor wood fire

- GENERAL NOTES:**
- Floor Area: 308.61m² Over Frame
 - Cladding Materials: Selected Cedar cladding on 45mm cavity system up to window head height.
 - Roof Cladding: 0.40 Freeman Roofing Alpine Tau cladding, with Colorcoat Z88 Finish (ISO Category 1-2) areas for internal, on 20mm cavity system above window head height.
 - STO Ansoar 50mm AAC panel with Stahl-Milano finish on 20mm cavity system.
 - Roof Cladding: 0.40 Freeman Roofing Alpine Tau roofing with selected Colorcoat Z88 Zincare finish (ISO Category 1-2) areas for internal.
 - Roof Pitch: 35°/63
 - Typical Ceiling Height: 2.90m
 - Internal Door Leaf Height: Standard (1700) Height.
 - Internal Door Leaf Width: Refer to Door Schedule.
 - Heating: Hydronic - TBC.
 - Insulation: Refer to specification.
 - Cladding Details (refer to cladding plan): Bathrooms and Laundry: No ceiling space to exit through eave as shown. Range Hood: No ceiling space to exit through roof.
 - Foundation Type: Megabrom Megafound 280 foundation system.
 - Insulation: Exterior walls: R4.0 wall. Ceiling: R4.0 ceiling. Floor slab: 120mm polystyrene.
 - Wall Underlay: James Hardie HomeRAB (refer to specification).
 - Roof Underlay: Thermaflit 215 (refer to specification).

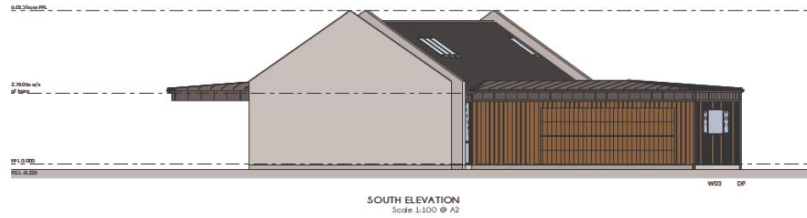
<p>Project Information</p> <p>Wind Zone - High Earthquake Zone - 1 Concrete Zone - B Snow Zone - True Designer</p>	<p>Job # - 123364 Date - 21.03.2024 Sheet # - Scale - As Shaded</p>	<p>SHANE KNAPP BUILDING 18103 128 123 1 Phone 077 432 0000</p>	<p>Client: Shane + Hayley Knapp 23 Nelson Street Gore Date: 12.04.2024</p>	<p>Project: Proposed Residence Rev: 1 Issue for Building Consent (B)</p>	<p>Drawing Name: Floor Plan Sheet: A02 Rev # - 1</p>
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BUILDING ENVELOPE RISK MATRIX		
North Elevation		
Risk Factor	Risk Severity	Risk Score
Wind zone (per NZS 3604)	High risk	1
Number of storeys	Low risk	0
Roof/wall intersection details	Medium risk	1
Eaves width	Very high risk	5
Envelope complexity	High risk	3
Deck design	Low risk	0
Total Risk Score:		10



BUILDING ENVELOPE RISK MATRIX		
East Elevation		
Risk Factor	Risk Severity	Risk Score
Wind zone (per NZS 3604)	High risk	1
Number of storeys	Low risk	0
Roof/wall intersection details	Medium risk	1
Eaves width	High risk	2
Envelope complexity	High risk	3
Deck design	Low risk	0
Total Risk Score:		7



BUILDING ENVELOPE RISK MATRIX		
South Elevation		
Risk Factor	Risk Severity	Risk Score
Wind zone (per NZS 3604)	High risk	1
Number of storeys	Low risk	0
Roof/wall intersection details	Medium risk	1
Eaves width	Very high risk	5
Envelope complexity	High risk	3
Deck design	Low risk	0
Total Risk Score:		10



BUILDING ENVELOPE RISK MATRIX		
West Elevation		
Risk Factor	Risk Severity	Risk Score
Wind zone (per NZS 3604)	High risk	1
Number of storeys	Low risk	0
Roof/wall intersection details	Medium risk	1
Eaves width	High risk	2
Envelope complexity	High risk	3
Deck design	Low risk	0
Total Risk Score:		7

Wind Zone - High	Job # - 12.33564
Reference Zone - 1	Date - 11.03.2014
Construction Zone - B	Drawn - J
Store Zone - Tree Designer	Scale - As Shown



Shane + Hayley Knapp
23 Nelson Street
Gore
11 Oct 2014 Rev 1 Issue for Building Consent (B)



Elevations
A10
Rev # - 1