

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*S127 Change to conditions of Consents  
Resource Management Act 1991*

<b>Application reference:</b>	LU 24044 – 90 Kakapo Street
<b>Applicant:</b>	Rebecca Ludke- Setefano
<b>Proposal:</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) for the demolition of a Scheduled Heritage Building, HH-Sched2 to enable construction of a new residential dwelling.
<b>Location:</b>	90 Kakapo Street, Gore
<b>Legal Description:</b>	Lot 1 DP 8186
<b>Activity Status:</b>	Non-complying
<b>Decision Date:</b>	3 December 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 Werner Murray, on 3 December 2024 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104A, B, C and D of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 and/or 220 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 Werner Murray, under delegated authority pursuant to Section 34A of the RMA

## 1. THE PROPOSAL

Land Use resource consent is sought to enable demolition of the Historic Heritage listed Building at 90 Kakapo street, Gore under the Gore Proposed District Plan. The building is listed in the Gore Proposed District Plan (PDP) HH-Sched2 under HH65.

The Heritage Item is the former Logie/Cook House and the entire external envelope is protected. The applicant seeks demolition of the building to allow for the construction of a new residential dwelling on the site.

The applicant has proposed to work with Gore District Curator for Arts and Heritage Mr Jim Geddes, from the Gore Museum. A salvage plan is proposed to be developed to document, re-use and adapt key elements of the building that represent its time and place. The building will further be photographed in full as a historical record.

## 2. SITE DESCRIPTION

The 2,034m<sup>2</sup> site at 90 Kakapo street, Gore is legally described as Lot 1 Deposited Plan 8186. The site is surrounded by residential development. The site rises gently from its boundary adjacent to Kakapo street but is mostly a flat grassed lot.

Under the Operative District Plan (ODP), the site is zoned Residential A and contains a Heritage Tree (T59).

Under the PDP, the site is zoned General Residential and has a Heritage Item setting and Heritage Item (HH65) overlay. The site also contains a Notable Tree (TREE-46).

The site is not subject to inundation hazard or liquefaction risk.

The building on site is single story with a rectangular footprint built around 1903-1907. It has timber framing and weatherboard cladding with a bullnose veranda with decorative cast-iron 'lacework'. The heritage item is shown in Figure 1 below.

The Heritage Tree is a deodar cedar located within the north-eastern aspect of the Lot.



*Figure 1: 90 Kakapo Street - Heritage Item HH-65*

The wider receiving environment is residential with other mixed uses including the Te Pukenga-New Zealand Institute of Skills and technology to the North, open grassed playing fields to the East and a Catholic Church to the South East. The receiving environment is shown in Figure 2 below:



*Figure 2: Receiving Environment*

### 3. ACTIVITY STATUS

#### 3.1 Resource Management Act 1991

##### Operative District Plan

The building on site is not listed as a heritage building under the operative district plan.

The activity is permitted under the operative district plan provided the building is demolished within 90 working days of its commencement and the site is left clean and tidy.

##### Proposed District Plan

The Gore District Plan was publicly notified on 31 August 2023. As part of this notification, sections of the PDP, including Historical Heritage and Trees, have immediate legal effect.

This is of particular relevance to this application as the subject site and historical building have been listed within the PDP provisions.

Given this, the PDP Historical Heritage Chapter will be the framework utilised for assessing the application.

The proposed activity requires resource consent for the following reasons:

- A **Non-Complying** activity consent pursuant to HH-R8 of the Proposed District Plan, which deems the demolition of a heritage item identified in HH SCHED 2 a **non-complying** activity.

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

Based on review of Environment Southlands Selected Land Use Sites (SLUS) register, the site is not identified as having or previously having HAIL activities. Accordingly, the NES-CS does not apply to this application.

### 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.

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:

### **Proposed District Plan**

#### *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, as the building is proposed to be demolished there is no applicable permitted baseline of relevance.

### *Assessment of Effects*

A Heritage Assessment was undertaken in November 2021 and May 2022 in order to assist the district plan review in identifying historic heritage structures for listing.

The house was photographed from the roadway and photos were available on a real estate website. Historic records were further reviewed.

The heritage assessment states the former Logie/Cook house has overall heritage significance to Gore and to the district of Gore as a whole. The building has historic significance for its association with the Logie and Cook families and, more generally, the early 20th century residential development of western Gore. The former Logie/Cook house has cultural value as a demonstration of the way of life of its early occupants and architectural significance as a square-plan villa that retains a good level of authenticity. The former Logie/Cook house has technological and craftsmanship value for the quality of its construction and detailing and contextual significance as a reminder of the early 20th residential development of western Gore.

Heritage assessments for the purposes of recommending items to be listed under a district plan do not typically include building condition reports. This application has therefore resulted in a more in-depth review of the property.

The applicant has provided a building condition report from Invision Project Consulting. The following areas of the property were inspected: site, subfloor, exterior, roof space and interior. The building is deteriorated to a point where it now poses a safety hazard and is not fit for purpose for residential activity.

The report concludes:

*“It would be uneconomical to attempt to restore this dwelling as the defects would only become greater as areas are uncovered. The dwelling has reached the end of its life with sunken piles, rot to the timber wall and floor framing, the weatherboards and windows are rotten and full of borer. The roof and spouting has reached the end of its life cycle.*

The building condition report has identified critical issues, including compromised pile foundations, a rusted roof, rotten subfloor and wall framing, rotten weatherboards containing borer, and windows and interior that are past their life cycle.

The present condition of the house would not meet the Healthy Homes Standards as outline in the Residential Tenancies (Healthy Homes Standards) Regulations 2019<sup>1</sup>.

The Applicant has provided an approximation of the cost to reinstate the building to a safe and usable condition. The costings indicate that the restoration would exceed \$575,000.00. The property overall was sold in December 2022 for \$400,000. As such, restoring the property would be uneconomical as the resultant value of the house and site would not amount to the overall cost.

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<sup>1</sup> Residential Tenancies (Healthy Homes Standards) Regulations 2019 (LI 2019/88) (as at 23 December 2023) – New Zealand Legislation

Alternative solutions, including partial preservation or adaptive reuse, have been considered. However, these options also pose significant challenges due to the extent of structural damage and material degradation. The building cannot be moved and elements re-used as it contains bora. Despite the building's historical value, its current state limits its use for residential activity.

It is considered that there is no reasonable alternative to retain the heritage item.

#### *Effects of loss of historic significance and cultural value*

The former Logie/Cook house has historic significance for its association with the Logie and Cook families and, more generally, the early 20th century residential development of western Gore. Whilst the house itself represents the early 20th century residential development, the surrounding locality has not been preserved. In 1948 the area was what could be considered rural lifestyle which has over time given way to suburban development.

The dwelling is proposed to be demolished for reasons that are in accordance with Policy HH-P12<sup>2</sup>. Whilst there will be an effect from the loss of the building, given that there is no reasonable alternative to retain the heritage item other means of preserving the heritage value is necessary. In this respect, the Applicant has proposed to liaise with the with Gore District Curator for Arts and Heritage Mr Jim Geddes, from the Gore Museum. A salvage plan is proposed to be developed to document, re-use (where possible) and adapt key elements of the building that represent its time and place. The building will further be photographed in full as a historical record. It is considered this will preserve the historic and cultural value of the property, however it will not be in situ.

Adverse effects in relation to loss of historic significance and cultural value are considered to be no more than minor.

#### *Effects of loss of architectural significance, technological and craftsmanship value*

The Applicant has provided additional information from Mr Geddes who has visited the site. Mr Geddes notes that the chimneys have been dismantled and therefore the roofline has subsequently been changed. The panel glazed veranda features are in disrepair and would unlikely survive an attempt to remove them. The authenticity of the concrete veranda pad is questionable as the veranda posts have been re-nailed, which calls into question the authenticity of the iron lacework.

Overall, Mr Geddes notes the original integrity of the building is largely compromised. Nonetheless, a salvage plan is proposed to be enacted to salvage key elements, that represent the structure's time and place, to be available for reuse. The building is further proposed to be photographed in full (as a historical record).

Given the alterations to the building over time, and the extent of work required to restore the property it is considered the effects of the loss of architectural significance, technological and

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<sup>2</sup> HH-P12 Avoid total demolition of scheduled heritage items unless:

1. the heritage item poses a significant risk to the safety of persons or property; and
2. the costs to retain the heritage item would be unreasonable when compared to all reasonable means to restore, adapt, reuse, or relocate the heritage item as an alternative to demolition; and
3. there is no reasonable alternative to retain the heritage item.

craftsmanship value are no more than minor.

Given the above considerations, it is considered the removal of this heritage building will have no more than minor effects on the wider environment. The building is not fit for purpose for residential living and currently poses a risk to the safety of persons. The costs to retain the heritage item would be unreasonable when compared to all reasonable means to restore, adapt, reuse, or relocate the heritage item.

#### *Conclusion: Effects On The Environment*

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed activity will have adverse effects on the environment that are no 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.

Given the above considerations, it is considered the removal of this heritage building will have less than minor effects on persons. The building is not fit for purpose for residential living and currently poses a risk to the safety of persons. The costs to retain the heritage item would be unreasonable when compared to all reasonable means to restore, adapt, reuse, or relocate the heritage item.

*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**

There are no relevant objectives and policies under the operative district plan as the activity is permitted.

### **Proposed District Plan**

***HH-O1 The contribution of the Gore District's historic heritage sites, buildings, structures and areas to Southland's history is appreciated, and items and sites that reflect a representative range of the District's history and cultures are recognised and protected for future generations.***

***HH-O2 Heritage buildings are valued by the community and are actively used for a range of compatible activities that do not adversely affect their heritage values.***

***HH-O3 The loss of significant heritage values from the District is prevented, including from neglect, natural processes and climate change and historic heritage items and sites are protected from inappropriate alteration, subdivision, use, and development.***

***HH-P12 Avoid total demolition of scheduled heritage items unless:***

- 1. the heritage item poses a significant risk to the safety of persons or property; and***
- 2. the costs to retain the heritage item would be unreasonable when compared to all reasonable means to restore, adapt, reuse, or relocate the heritage item as an alternative to demolition; and***

### **3. *there is no reasonable alternative to retain the heritage item.***

The proposal is consistent with the exceptions outlined in HH-P12. The building's structural integrity poses a risk to persons, particularly in its deteriorated state. A comprehensive building conditions report along with costing to restore the property have demonstrated that the costs to restore or adapt the building are unreasonable compared to all reasonable alternatives. Efforts to explore alternatives such as relocation or adaptive reuse have been considered but are unfeasible due to level of rot, rust and bora in the building.

While the building contributes to the District's historic heritage, its significant state of disrepair and the lack of feasible restoration options mean its long-term heritage value is compromised. Retaining the building in its current condition risks further loss of heritage significance due to ongoing deterioration. The proposal to photograph and document the building's history will recognise and protect the districts history and cultures for future generations. The proposal is therefore not considered to be contrary to Objective 1.

The building's condition precludes its active use for compatible activities valued by the community. The site is zoned General Residential under the Proposed District Plan and therefore residential activities are anticipated. However, restoration to a usable state for residential living has been deemed economically unviable, and without intervention, the building remains unusable. It is therefore considered that Objective 2 can not be achieved, but this is acceptable given the findings under HH-P12.

In relation to objective 3, the building is already in a state of disrepair, and this was the case when the listing was recommended. This does not suggest the building should not have been listed. The district plan has been drafted specifically with the HH-P12 pathway in order to manage listed buildings in a state of disrepair. The process then enables additional information, such as building reports, to be reviewed and a recommendation made.

Based on the above, the demolition proposal is not contrary to objectives and policies. The buildings historical importance will be recognised and preserved through photographic evidence. while addressing safety concerns and economic realities. The recommendation achieves a balanced consideration of heritage preservation against safety, financial feasibility, and practicality.

## **6.4 Weighting**

The proposal is permitted under the operative district plan however is non-complying under the proposed district plan, which has immediate legal effect but is not yet fully operative. The proposed plan has been publicly notified and therefore certain provisions have legal effect under the relevant planning legislation. However, it is subject to potential changes to provisions through submissions, hearings, and appeals. The level of weight attributed depends on the stage of the proposed plan's progress and the likelihood of its provisions remaining unchanged. Greater weight may also be given to a proposed plan which represents a significant shift in council policy provided the new provisions are in accordance with Part 2.

Granting approval under the operative plan when the proposed plan sets a stricter standard could undermine the integrity of the proposed plan and create precedent issues. However, until the proposed plan is fully operative, it does not carry the same weight. A submission<sup>3</sup> has been received which generally opposes the inclusion of dwellings/buildings as not all are considered

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<sup>3</sup> Submission 84

significant to community. The operative plan is therefore given greater weight as the proposed district plan, in relation to heritage is yet to be tested through the hearings process. Further, the general policy direction of the heritage chapter does not amount to a significant shift in heritage policy.

## 6.5 Section 104D Restrictions for Non-Complying Activities

With respect to the assessment above, the first gateway test for a non-complying activity required under section 104D(1)(a) has been met in that the application will not have an adverse effect on the environment which is more than minor.

With respect to the second gateway test under section 104D(1)(b), the application is not contrary to the relevant policies and objectives of the Operative District Plan or the Proposed District Plan.

Accordingly, as the application has passed both of the gateway tests in s104D, consent can be granted for this non-complying activity.

## 7. PART 2 OF THE RMA

The purpose of the RMA is to promote the sustainable management of natural and physical resources. The proposed district plan is proposed to be complete, taking into account higher order documents and Part 2 of the RMA.

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

## 8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B and s104D of the RMA, consent is **granted** for the application to demolish the building at 90 Kakapo Street, subject to the following conditions imposed pursuant to Section 108 of the RMA:

### Consent Conditions

1. The demolition must be undertaken in general accordance with the application made to the Council, reference SC24044, except, where modified by conditions of consent.
2. Prior to demolition, the consent holder shall submit a Salvage Plan to the Gore District Council that shall include:
  - a. The methodology for recording and archiving the heritage features and history of the building, for example photographic evidence,
  - b. an audit of any salvageable material from the building, and
  - c. A list of any features to be reused as part of the redevelopment of the site, and/or made available for use elsewhere, either in their original or modified form.
3. Prior to demolition the building must be photographed in full as a historical record. The photographs must be provided to the Gore Museum.
4. The heritage material identified as salvageable under the Salvage Plan in Condition 2 shall be salvaged and donated to the Gore Museum, as agreed by the museum.

## 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](mailto:planning@goredc.govt.nz).

Prepared by



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Decision made by



Werner Murray  
**Delegated Authority**