

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	LU24058
Applicant	Te Kōhanga Reo O Te Ara Tika
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to operate a Kōhanga
Location	1 Oreti Street, Gore
Legal Description	Lot 1 DP 12785
Activity Status	Discretionary
Decision Date	19 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 19 December 2024 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 Werner Murray, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

Consent is sought to establish and operate a Kōhanga (Childcare Centre) for up to 25 tamariki (Children) and up to 6 kaimahi (staff) with provision for hui and storage activities to occur conjointly onsite. The operating hours of the kōhanga will be from 8:00am – 4:00pm Monday to Friday.

The application also proposes to undertake an extension to the existing building to provide better functionality of the building. The extension of the building will be 36m² in area, resulting in a new undercover area (being 22.11m²) and a room being extended (being 13.7m²) to establish a sleep area for tamariki as shown in Figure 1. A building consent application has been submitted for this extension works (BC 211312) and other internal works.

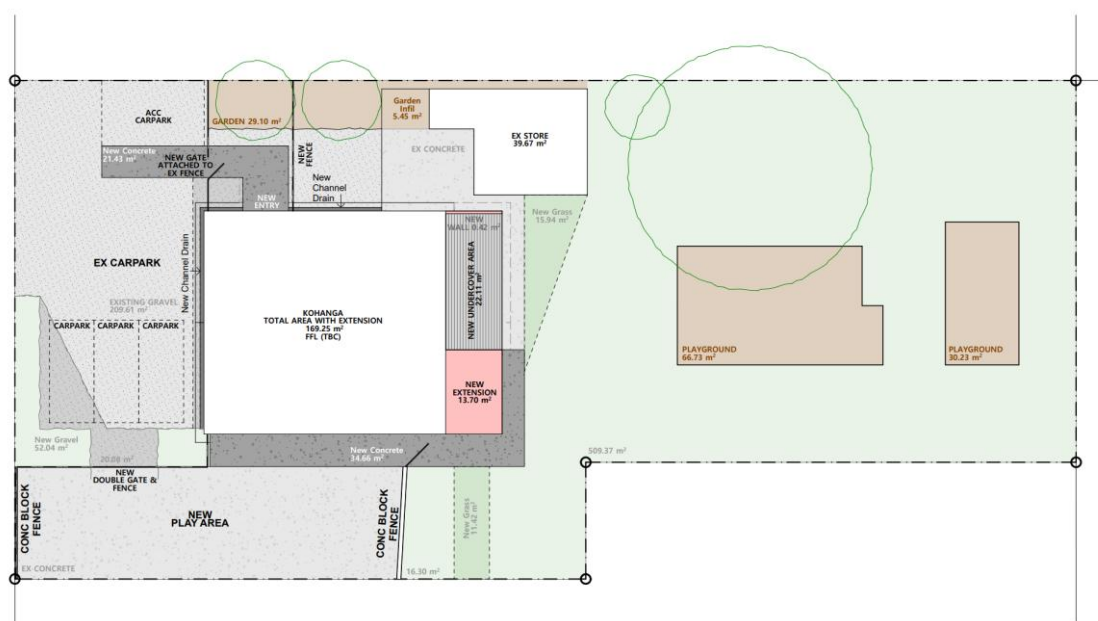


Figure 1: Proposed extension work outlined in red

Kōhanga activities at 1 Oreti Street were established and the site used in line with the Te Kōhanga Reo National Trust Kaupapa of active whānau participation and involvement in mahi Māori traditions, providing both kōhanga educational activities as well as Kōhanga:

- Whānau hui.
- Storage.
- Excursions.

The proposed activities will be managed through Te Kōhanga Reo National Trust, a charitable trust affiliated with approximately 460 Kōhanga Reo. The Kōhanga is proposed to be a full immersion in te reo Māori from birth to 6 years of age and their whānau.

2. Site History and Background

The site has been held to be utilised and operated as a Kōhanga since 1992. The Applicant submitted an existing use rights application in July 2024 and although the activity has been noted to have been existing in nature, no existing use rights have not been successfully demonstrated by the Applicant. The Applicant now seeks a resource consent to permit the activities onsite to ensure compliance with the District Plan regulations.

3. SITE DESCRIPTION

The site is located at 1 Oreti Street, Māruawai, Gore located within the Industrial Zone under the Operative District Plan. It is legally described as Lot 1 DP 12785 held in Record of Title SL10B/83 and is 1356m² in area.

The site contains an existing building, a playground and a storage shed, with onsite parking.

1 Oreti Street is abutted by residential activities to the north and industrial activities to the east and south, and fronting Oreti Street to the west. Oreti Street is an access road in the Industrial Zone and services a number of industrial site, therefore experiences high traffic movement of vehicles and heavy commercial vehicles.

The Council's mapping system, which sources data from Environment Southland identifies the site as being prone to flooding subsequent to a stopbank breach or stopbank overtopping. The liquefaction risk across the site is 'negligible'. This site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site.

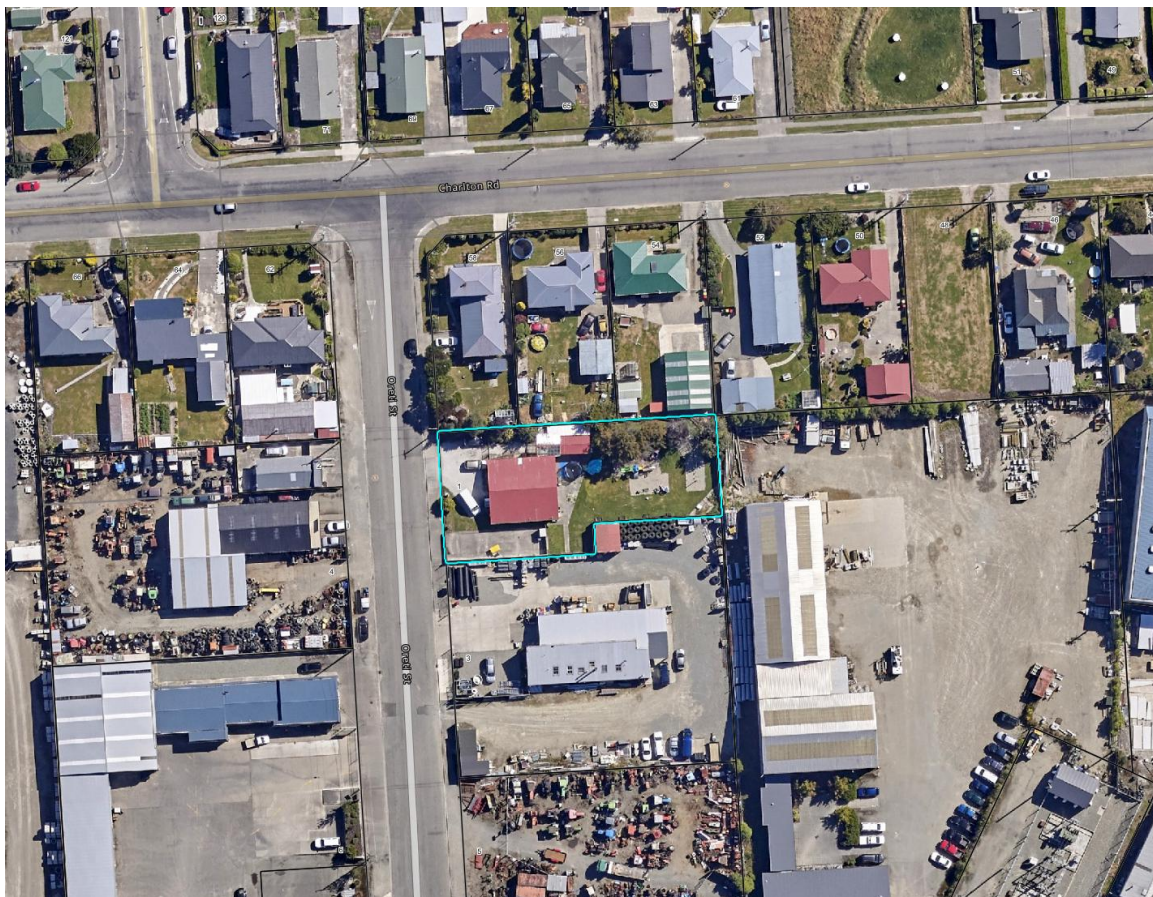


Figure 2: Subject site outlined in blue and surrounding environment

4. ACTIVITY STATUS

3.1 Gore District Plan

The site is zoned Industrial 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 as the proposed activity, being a Kōhanga (Childcare Centre) on the site is consistent with the Gore District Plan definition of an *Education Activity*, and this is not permitted in the Industrial Zone under Rule 4.2.1(4).

***Education activity** means the use of land and buildings for the provision of regular instruction, teaching, learning or training at state, private or integrated facilities, together with any associated boarding activities, and includes ancillary administrative, recreational, cultural, car parking and retail facilities. This includes, but is not limited to, any preschool, primary school, intermediate school, secondary school, kohanga reo, language schools, learning centre and tertiary education facility.*

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

Based on the applicants 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.

5. 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 formal 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 there is no permitted baseline for an education activity.

Character and Amenity

The surrounding environment consists of residential to the north and industrial surrounding the remainder of the site. This constitutes a mixed use environment that is adverse in character. The industrial environment consists of a range of industrial activities that operate weekdays for similar hours to the kōhanga being primarily from 7am to 5pm Monday to Friday.

The kōhanga will continue to occur within the building, retaining its physical form and appearance and will not detract from the immediate surrounding environment. There is an existing outdoor play area to the east of the subject site that is screened by existing vegetation on site and existing fencing, which is proposed to remain.

The proposal has capped the number of tamariki (children) and kaimahi (staff) to be no more than 25 children and 6 staff per day. This aligns with the existing number of children and staff that have been

held to be operating from the site since 1992. The proposal will be undertaken both inside and outside in the Industrial Zone. Although adjoining the residential boundary there has been no complaints held on record in relation to this activity operating.

Visual Effects

The proposal will be undertaken in the existing building and proposes minor external alterations to the east of the site. This is not visible from the street of Oreti Street. When considering the size of the property and the industrial surrounding environment, the extension is unlikely to be noticeable from the wider environment and adverse visual effects will be no more than minor.

Noise

The site is located in the Industrial Zone, where there are a range of activities occurring within this zone from a range of hours. The noise limits in the Industrial Zone permits noise generated to be no more than 55 dBA Leq at or beyond the zone boundary. A childcare centre as stated above has been established since 1992 and has had 22 tamariki onsite. The proposed expansion of the kohanga will result in activities occurring inside and outside. The outside area is fenced and has existing vegetation along the north boundary that is proposed to remain that will provide additional screening for noise being generated outside from the playground.

Transport

The location of the site is in the Industrial Zone, south of the Gore township and is accessed via Oreti Street, off Charlton Road. This street is a known high volume street that services a range of vehicles including heavy vehicles for the surrounding industrial activities. Located in front of the site is a pedestrian footpath along the east road frontage and a carparking/ pick up drop off area within the western portion of the site, accessed off Oreti Street via an existing formed access.

The subject site and its location allow for a variety of transport options creating a safe environment for the users of the proposed facility. Likewise, it is unlikely that there will be any noticeable traffic safety issues or increased traffic created by the use of the site and overall adverse traffic effects on the wider environment will be no more than minor.

Building extension

The proposed extension is at the rear of the property and will not be visible from the street frontage. The extensions will be located behind the existing storage shed on the northern boundary of the site and will not adversely affect the visual amenity of residential properties to the north. The extension meets the bulk and location of the District Plan and will be jointly part of the existing building, appearing as one complete building. It is considered that the adverse effects on the environment are 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 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 with pink line showcasing the zone boundary

52, 58, 56, 54, and 52 Charlton Road (Residential Zone)

These properties are located on Charlton Road, north of the subject site. These properties are located in the Residential Zone and share a common boundary with the subject site, apart from 52 Charlton Road which is located on the other side of Oreti Street.

Externally the physical appearance of the building remains the same and the proposed extension will be 36m² in area and continue to read part of the existing building. While the playground is proposed to be used during the day, it is proposed to occur between the hours proposed being 7:00am – 4:00pm and not to be used in the evening. The existing fence is to remain as well as the vegetation along the northern shared boundary. Maximum number of persons and hours of operation further provide mitigation.

Further these properties boarder the industrial zone with multiple industrial activities occurring which are all required to comply with Rule 4.5.1(3)(b), it is expected that from a noise perspective these uses will be required to comply with the District Plan and effects relating to noise will be less than minor. However, a condition has been placed on the consent in order to ensure that adverse noise effects do not occur.

Any adverse effects associated with the proposed activity on these properties will be less than minor.

2, 3, 4, and 6 Oreti Street (Industrial Zone)

The character and amenity effects are not considered to be noticeable when considering the existing environment –the surrounding industrial use and activity history for the subject site.

The size of the proposed extension is not large and will continue to read as part of the existing building. The extension is to the north of the site, and this is only visible to the owners and occupiers of the property to the south (3 Oreti Street). Overall, it is considered that the effects are less than minor on these owners and occupants.

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.

6. 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.

7. 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.

Positive effects from the proposal are that it creates a positive social environment and educational service for the community enabling an increased use of the site providing for a safe positive learning environment within Gore.

6.3 Relevant Provisions

District Plan

The relevant operative objectives and policies are contained within Chapter 3 and Chapter 4A of the District Plan.

The proposed Kōhanga activity is consistent with the objectives and policies within Chapter 3 of the District Plan. The proposal is to recognise the existing activity on the subject site and will help maintain the amenity and character values of the surrounding area. The proposal will bring a vibrancy to the area and provide a positive educational facility extension within a Gore.

Policy 4(b) of the Natural Hazards chapter are the most relevant policy in relation to natural hazards for this site. Policy 4(b) requires encouragement of techniques/measures to avoid the hazard. It is noted that the proposal is not for a new building or a new activity on the subject site, rather it acknowledges an existing use of the property with an extension. The extension is 36m² in area and consists of a covered veranda. Based on this and considering the existing environment the proposed Kōhanga application will not worsen any flood hazard on the subject site or any surrounding property, and no physical mitigation works are considered appropriate to mitigate an actual or potential flood risk.

Southland Regional Policy Statement 2017

The SRPS has been considered and the proposal is consistent with this document.

8. PART 2 OF THE RMA

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

Section 6- Matters of national importance

This recommendation has taken into account the matters of national importance listed in Section 6.

Section 7- Other matters

Particular regard has been given to the maintenance and enhancement of amenity values (section 7(c)) and maintenance and enhancement of the quality of the environment (section 7(f)). The amenity of the land and surrounding area will be maintained, and the proposed Kōhanga will not have adverse effects on the quality of the environment.

Section 8- Treaty of Waitangi

This recommendation has taken into account the principles of Treaty of Waitangi noting that the site is not within any known heritage sites or statutory acknowledgement areas. Overall, the proposal is considered to meet the purpose and principles of the RMA.

9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B of the RMA, consent is **granted** to establish a Kōhanga facility 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 as submitted on the 8 July 2024 and the further information received on the 20 August 2024, 29 October 2024 and 18 November 2024 and the following plans:
 - ‘Site Plan Proposed Te Ara Tika Alterations’, drawn by Solid Concept Design and Construction Consultants, dated 02.05.2024
 - ‘Floor Plan Proposed Te Ara Tika Alterations’, drawn by Solid Concept Design and Construction Consultants, dated 02.05.2024
2. The hours of operation for Kōhanga (childcare) activity shall be 8am – 4pm Monday to Friday.
3. The number of Tamariki (children) shall not exceed 25 and kaimahi (staff) shall not exceed 6.
4. A close boarded fence is to be maintained along the northern boundary of the subject site adjacent to the identified outdoor play space.
5. If noise levels at the boundary of the site exceed 55 dBA Leq during daytime hours (7:00 a.m. to 10:00p.m.) or 45 dBA Leq (or 75dBA Lmax) during nighttime hours (10:00p.m. to 7:00 a.m.). The consent holder must immediately cease the activity causing the noise and implement noise mitigation measures to reduce the noise levels below the specified limits. The activity can only resume once compliance with the noise limits is confirmed by a qualified acoustic consultant.

Advice Notes

1. This decision does not allow for any additional breaches not specifically applied for and approved by this decision. Noise limits set out within the Gore District Plan apply to the activity and any breach will be require resource consent approval.

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

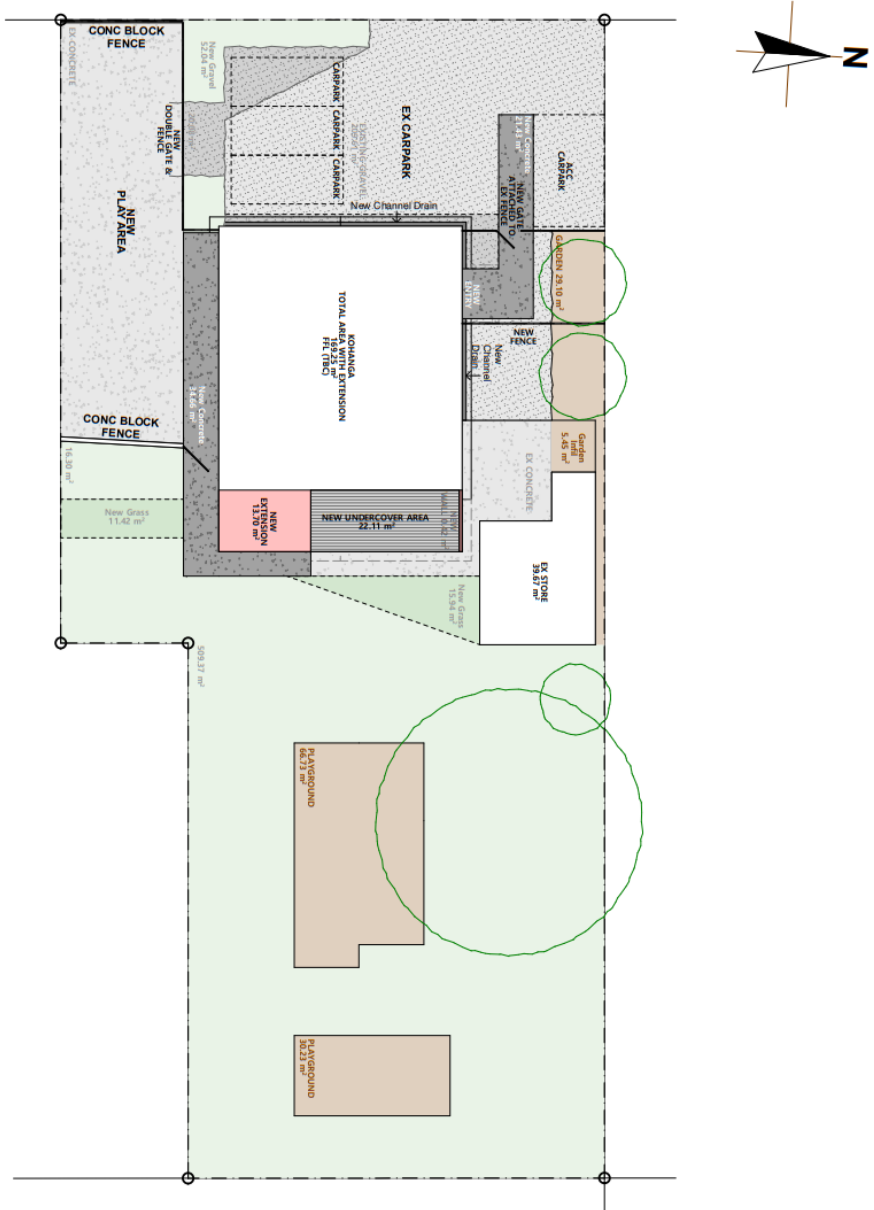
Decision made by



Werner Murray
Delegate

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS



SOLIDCONCEPT
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LEGAL NOTES:
1. Subject to clause 19.2 of the Resource Management Act 1991, all measurements to be taken shall be taken from the centre of the lot or from the centre of the road.
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PROJECT NAME:
PROPOSED TE ARA TIKA ALTERATIONS
FOR
TE KOHANGA REO NATIONAL TRUST
PROJECT
RSC1350

ADDRESS:
1 ORETI ST. GORE
LEGAL DESCRIPTION:
LOT 1 DP 12786

#	DATE	ISSUE / REVISION
1	16.02.24	CONCEPT REVIEW SET V1
2	16.02.24	CONCEPT REVIEW SET V2
3	16.02.24	CONCEPT REVIEW SET V3
4	16.02.24	CONCEPT REVIEW SET V4
5	16.02.24	CONCEPT REVIEW SET V5
6	02.05.24	PRELIMINARY DESIGN SET V2

DESIGN:
A3
DRAWN:
DE
CHECKED:
AL

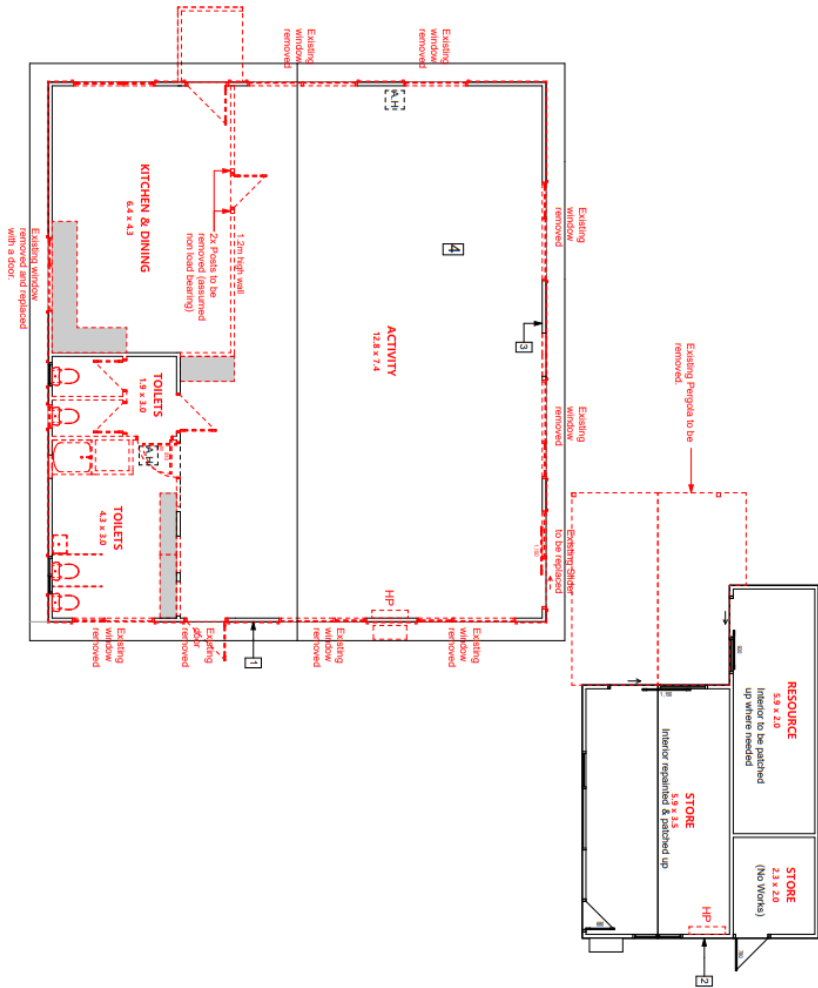
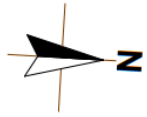
SHEET NAME:
SITE: PROPOSED
SK-02
SHEET 3 OF 12

SCALE: 1:200 AT A3

GENERAL NOTES
Site Area 1,354 m²
Territorial Authority GDC
Planning Zone IND

PROJECT SCOPE
The proposed scope is based on renovating the existing building to provide the required spaces and meet Kohanga licensing requirements.
Weatherproofing Issues.
Significant work is required to address existing weatherproofing issues. This includes:
1. Recladding and, as required, replacing damaged and rotten framing.
2. Upgrading the roof flashings and barge. It is not expected to replace the existing roof.
Site Works.
2.1. Upgrade the drainage around the building to manage stormwater runoff from entering the building (Channel Drain).
4. Removing the existing paving.
5. Upgrading fencing, gates & landscaping to licensing and TKNZT requirements.
Interior Renovation
6. Renovating the interior to provide the spaces required by the licensing requirements.

Note:
Site levels to be added



EXISTING & DEMO FLOOR PLAN KEY

- EXISTING WALL
- DEMO WALL
- EXISTING DOOR
- EX ROOMS TO BE REMOVED
- EXISTING ROOMS TO BE REMOVED

DEMO NOTES

- All items shown in red on this plan are to be removed
- 1 Existing Wall Chadding to be removed.
 - 2 Existing exterior Chadding to be removed and repaired
 - 3 Repair wall where fire has been removed
 - 4 Patch holes in ceiling & Repaint

SOLIDCONCEPT
DESIGN & CONSTRUCTION CONSULTANTS

LEGAL NOTES:
LEVEL AND HEIGHT approval. All measurements to be confirmed on site by the contractor prior to the commencement of work. Solid Concept Pty Ltd and its employees shall not be held liable for any copyright infringement or copying in any form or by any means without the written permission of Solid Concept Pty Ltd

PROJECT NAME
FOR: TE KOHANGA REO NATIONAL TRUST

PROJECT
PROJECT NO: MSC1580

ADDRESS
1 ORETI STREET
LOT 1 DP 12785

NO	DATE	REVISION / REVISION SET	DESIGN: AL	CHECKED: AL
1	15/01/24	CONCEPT REVIEW SET V1		
2	22/02/24	CONCEPT REVIEW SET V2		
3	16/03/24	CONCEPT REVIEW SET V3		
4	16/03/24	CONCEPT REVIEW SET V4		
5	08/04/24	PRELIMINARY DESIGN SET V1		
6	02/05/24	PRELIMINARY DESIGN SET V2		

SHEET NAME
FLOOR PLAN: EXISTING

SCALE: 1:100 A3

SK-03
SHEET 4 of 12