

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC 24028
Applicant	Stephen & Gretchen McStay
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for a 2 Lot Subdivision creating one additional residential lot
Location	101 Robertson Street, Gore
Legal Description	Lot 4 DP 4811 held in record of title SL186/99
Activity Status	Restricted Discretionary
Decision Date	29 July 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 29 July 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 and 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 Penny Weng, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

Consent is sought to subdivide 101 Robertson Street ('the site') into two lots as follows:

Lot 1	920m ² of bare land. A new dwelling is anticipated to be constructed in the future. No detailed design has yet taken place for this dwelling.
Lot 2	1,103m ² of land with an existing dwelling and garage which will be retained.

There are no earthworks, new residential dwellings or physical building works proposed on either of the Lots.

Access to the sites will be retained via Robertson Street. Upgrades to both of these accessways will be required.

Servicing to Lot 2 will be retained as is. New service connections can be provided for Lot 1 via existing sewer, stormwater and water mains off Robertson Street. PowerNet has confirmed power supply for Lot 1 via pole 28569 on the northeast boundary. A telecommunications connection is available to Lot 1 should it be required by future owners.

The proposed subdivision plan is shown in Figure 1 below.

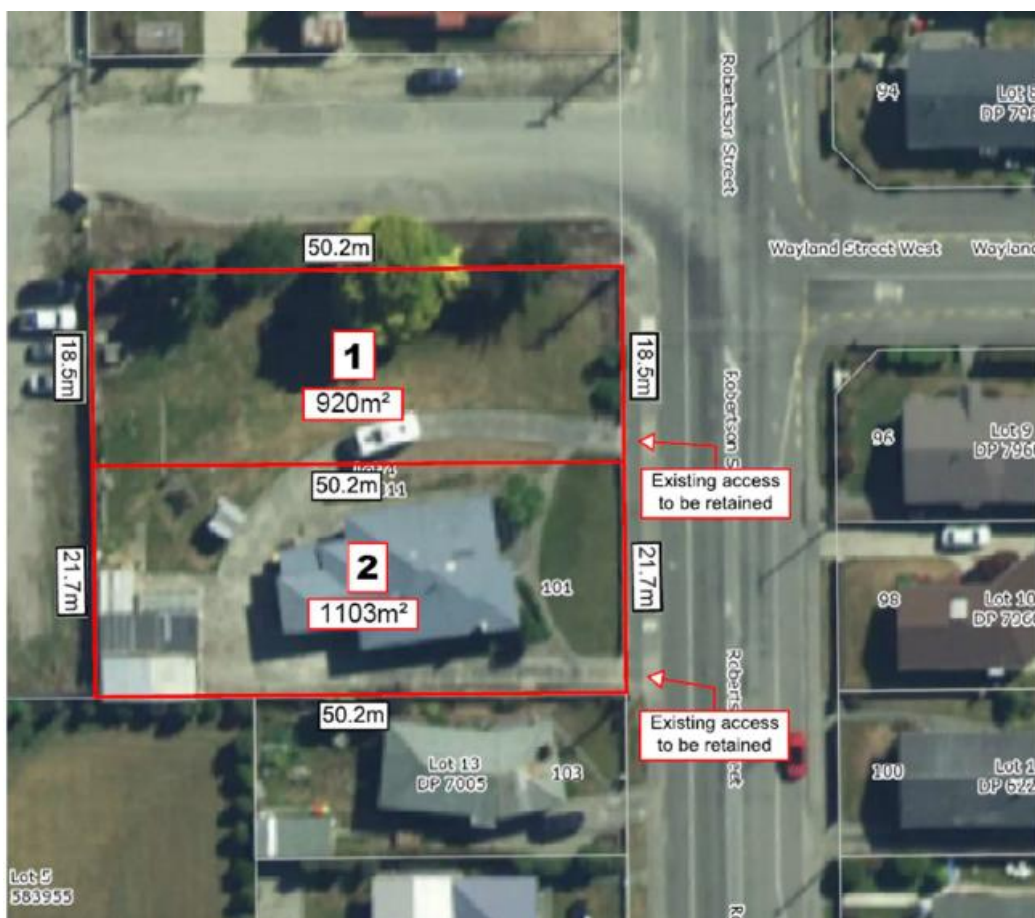


Figure 1: Subdivision site plan (Source: Applicant's AEE)

2. SITE DESCRIPTION

The site is described in Section 1.1 of the applicant's AEE. This description is adopted and the following added.

The site is zoned Residential A in the Operative District Plan and is adjacent to General Rural zoning to the west, as shown in Figure 2 below.

The area surrounding the site to the north, south and east is predominately residential in character and use. There is an established transport yard to the west of the site.

The site is relatively flat in topography with established planting along the northern boundary.

Council mapping system identifies the site's liquefaction risk as negligible, and the site is not located within a flood prone area. The site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site, however it is noted the neighbouring property to the east (99a Robertson Street) is identified as a verified HAIL site. There are no heritage sites or heritage trees noted on the site.

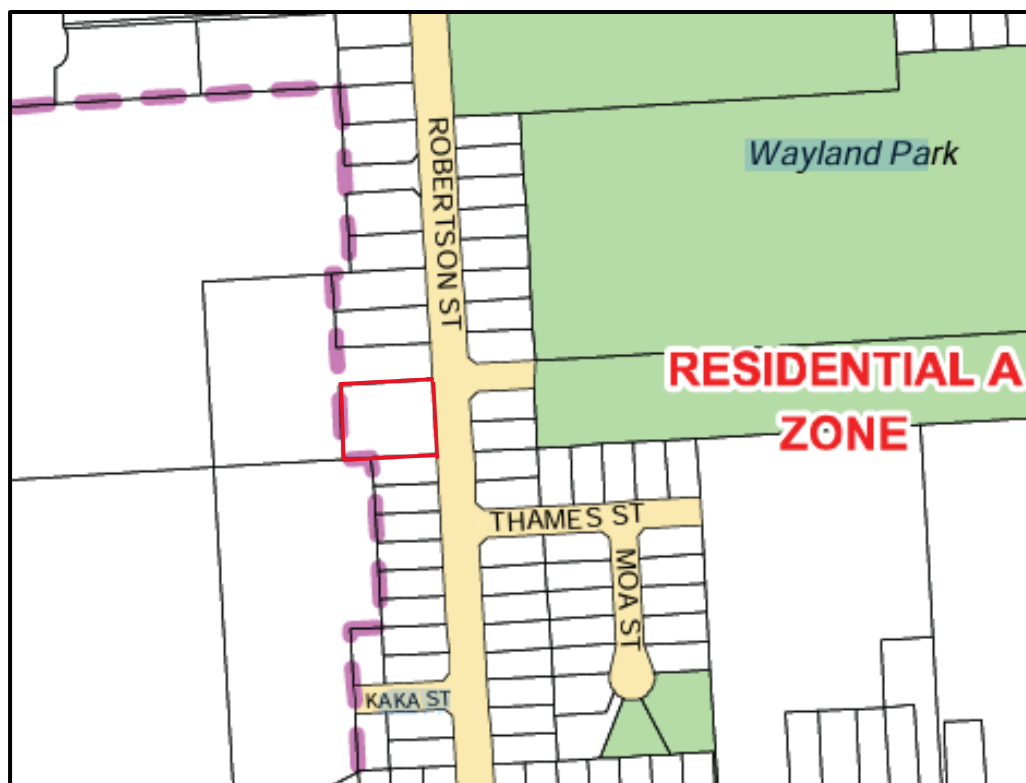


Figure 2: Subject site in red outline (Source: Gore District Plan Map 8)

3. ACTIVITY STATUS

3.1 Operative Gore District Plan

The site is zoned Residential A in the Operative 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 8.10(4)(C) in regard to the subdivision being within the Residential A Zone, for two new lots with a minimum of 400 square metres.

Council's discretion is restricted to the follow matters:

- (i) suitability of the allotments for activities permitted within the zone in which they are located.*
- (ii) suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land*
- (iii) ability to provide services (water, sewage, storm water, power and telecommunications);*
- (iv) impacts on the Council and other infrastructure services;*
- (v) future use of the land and the need to consider any associated resource consents;*
- (vi) within residential and rural areas lot size, dimensions and potential for future subdivision of the land;*
- (vii) within residential and rural areas, the desirability or providing building platforms; and*
- (viii) provision of easements*
- (ix) impacts on any heritage or archaeological values*
- (x) impacts on natural features and landscapes, ecological or cultural values.*
- (xi) impacts water quality, including groundwater*
- (xii) provision of all transport modes, including the movement of pedestrians and cyclists.*

3.2 Proposed Gore District Plan

The site is proposed to be zoned as General Residential within the Proposed District Plan.

There are no rules with immediate legal effect that impact this application.

3.3 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.

3.4 Activity Status Summary

Overall, the application is being considered and processed as a **restricted discretionary** activity under the Operative 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

No affected persons have been identified in accordance with section 95E, where the adverse effects of an activity on a person is likely to be minor or more than minor. No written approvals have been provided.

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 as subdivision requires resource consent.

Effects On The Environment

Suitability of the allotments for activities permitted within the zone in which they are located & future use of the land and the need to consider any associated resource consents

The subject site is zoned Residential A. The proposed Lot 1 and Lot 2 meet the required 400m² land area, prescribed by the District Plan. There is sufficient space on Lot 2 to retain its current dwelling as demonstrated by the applicant. Further, there is sufficient space on Lot 1 for a residential dwelling to be established in the future, compliant with the Performance Standards in the District Plan, including the yards, daylight admission and height standards. There are no other resource consents that are needed to be considered with this subdivision.

An advice note is recommended which advises the applicant that any future development on the proposed Lot 1 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 and Gore District Plan and will be assessed at the building consent stage.

Overall, the proposed lots are considered to be consistent with the anticipated type of subdivision within the Residential A zone. The lots are both of suitable size and free of constraints to enable permitted land uses. It is considered that size, shape and configuration of the proposed lots are appropriate and that any adverse effects on the wider environment will be no more than minor.

Suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land

The Gore District Council's mapping system does not identify the site as prone to any natural or other hazards.

The subject site is not identified as a HAIL site and therefore any risk of the spread of contamination to the wider environment is less than minor.

Any adverse effects, with respect to hazards, on the wider environment will be no more than minor.

Ability to provide services (water, sewage, storm water, power and telecommunications); and impacts on the Council and other infrastructure services;

The application was reviewed by Aaron Green, 3 Waters Operations Manager for Council. His findings are summarised below.

The provision of a new water supply connection is required to the boundary of proposed Lot 1. The connection requires an Acuflo CM2000 manifold installed in a blue box outside of the boundary for servicing.

The provision of new wastewater connection is required to Lot 1 with a cleaning eye approximately 300mm outside the property boundary with a red lid for servicing. This will need to be a cast iron lid if it is in a trafficable area.

The provision of new stormwater connection is required to Lot 1 with a cleaning eye approximately 300mm outside the property boundary with a green lid for servicing. This will need to be a cast iron lid if it is in a trafficable area.

The recommendations of Mr Green have been included as conditions of consent, which has been accepted by the applicant as forming part of the proposal.

PowerNet has confirmed in an email dated 26 March 2024 from Fraser Neil that there are sufficient power supplies for future Lot 1. Power supply to Lot 2 will be retained as is.

There are existing telecommunications services (fibre) connected to Lot 2. There is a connection within the Robertson Street corridor for Lot 1 if a wired connection is required by the future owners. 4G and 5G wireless coverage is also available to future Lot owners.

Services are provided for proposed Lot 1 and Lot 2 and any effects on Council infrastructure services will be less than minor.

Within residential and rural areas lot size, dimensions and potential for future subdivision of the land;

The applicant has identified that the subdivision will provide two lots of suitable size to meet the District Plan's requirements for yards, daylight admissions, height and site coverage within the Residential A zone.

Current residential use on Lot 2 and future residential use on Lot 1 are provided for. Any future subdivision or development can be assessed on its own merits.

Within residential and rural areas, the desirability or providing building platforms; and provision of easements

The application and scheme plan does not show a fixed building platform location on the proposed vacant Lot 1. It is considered unnecessary to require a fixed building platform in order to reduce effects, as sufficient space is provided for in order to meet the residential bulk and location standards, which will apply to all future buildings, with effects managed through these standards.

There are no existing easements for the proposed Lot 1 and Lot 2. Should any additional easements be required to secure any services and utilities, they can be included at the time of section 223 certification.

Any adverse effects on the wider environment will be less than minor.

Impacts on any heritage or archaeological values; impacts on natural features and landscapes, ecological or cultural values; and impacts water quality, including groundwater

There are no known heritage or archaeological features, or values identified on the site. It can be considered that the impacts of the proposed subdivision will be nil with respect to these features and values.

The subject site is located outside of any mapped significant natural features and landscapes and any areas shown as having identified ecological or cultural values.

The subject site is not in close proximity to any water bodies. It is considered any impacts on water quality, including groundwater would be less than minor.

Provision of all transport modes, including the movement of pedestrians and cyclists.

Murray Hasler, Roading Asset Manager at Council reviewed the application. His findings are summarised below.

Current Situation

The property subject to this application is on the west side of Robertson Street almost opposite Wayland Street West intersection, which is the access to the Gore Multisport Complex. The section of Robertson Street adjacent to the proposed subdivision is a chip sealed, urban collector road. Robertson Street has an existing kerb and channel with an adjoining concrete footpath bounding both sides of the carriageway. The approaches to the property are flat and straight. A 50kph speed restriction applies to this section of Robertson Street.

Application Assessment

Access standards contained in the Gore District Council Subdivision and Land Development Bylaw (the Bylaw) apply to this situation.

The applicant proposes utilising two existing vehicle crossings to provide access to proposed Lots 1 and 2 respectively. The location of both accesses are acceptable. The sight distances available at the existing vehicle access locations meet the requirements listed in Table 3.3B of the Bylaw. Both accesses will need to be upgraded by constructing reinforced concrete from the back of the footpath to the property boundary in accordance with Diagram R03 “Standard Drop Crossing Details” contained in the Bylaw.

The recommendation of Mr Hasler has been included as a condition of consent, which has been accepted by the applicant as forming part of the proposal.

Overall, subject to the proposed condition, it is considered both lots can be accessed, and any adverse effects relating to transport will be no more than minor.

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.

The adjacent persons have been identified within Figure 3 below.



Figure 3: Neighbouring properties; red dots-residential, blue dots-rural (Source: GRIP maps)

The subdivision meets the standard for minimum lot size for the Residential A zone. The District Plan has therefore anticipated the proposed level of development and any effects associated with future development of this density on such lots and deemed it appropriate. The existing residential dwelling on Lot 2 will comply with the bulk and location standards. Future development on proposed Lot 1 will be required to comply with District Plan bulk and location standards, specifically boundary rules which ensure effects on neighbouring properties are acceptable.

It is considered that the proposed lots will maintain the character of the area and the existing amenity values will be unaltered. Any adverse effects upon the character and the amenity experienced by persons living on the adjacent properties will be less than minor.

Reverse sensitivity effects in relation to the surrounding residential environment are considered to be less than minor, given the proposal is for a level of density anticipated by the District Plan.

The site adjoins the General Rural Zone to the west shown by blue dots in Figure 3. The site directly to the west of the property is currently a transport yard and the lot to the south-west appears vacant. Reverse sensitivity effects in relation to this existing rural environment are expected to be less than minor. The proposal is for a residential subdivision within the anticipated density of the District Plan. The residential / rural zoning and activity confluence is well established within this area and associated reverse sensitivity considerations have been established by the existing zoning.

The subdivision would maintain the safe and efficient function of the Council's roading network. Given the nature of the surrounding area, any effects related to traffic generation are considered to be less than minor on any person.

Services can be accommodated via the reticulated network. The effects of the proposal in this regard will therefore be less than minor for any adjacent person.

Natural hazards will not be exacerbated by the proposal.

Overall, it is considered the subdivision will not create lots or uses that are out of character for the area or detract from the existing amenity values. Therefore, the adverse effects are considered to be less than minor, and no persons would be adversely affected by the proposal.

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 specific 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 and 220 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 8 – Subdivision and Chapter 3 – Land Use Activities of the District Plan.

The applicant has addressed the relevant objectives and policies for this proposal in Appendix A of the AEE and that assessment is adopted here.

Overall, the proposal is considered consistent with the objectives and policies of the District Plan.

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 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. SECTION 106 REQUIREMENT FOR SUBDIVISION

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made.

In this case, there is sufficient provision for physical and legal access to both of the proposed lots. Proposed Lots 1 and 2 will be served separately by upgraded vehicle crossings to Robertson Street.

The subject site is not located in an inundation area, and the proposed subdivision of the land is therefore unlikely to accelerate material damage from natural hazards onsite or off.

Overall, the proposal is considered suitable under Section 106 of the RMA.

8. PART 2 OF THE RMA

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

Section 5 - Purpose

The proposed subdivision takes into account Section 5 of the RMA, as the proposed lots will ensure the natural and physical resources of the land is protected for future generations. As has been assessed above, the adverse effects of the proposal can be avoided or mitigated.

Section 6 - Matters of national importance

Attention has been given to matters of national importance. This site does not contain any outstanding natural features or landscapes, nor an area of significant indigenous vegetation.

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 subdivision will not have adverse effects on the quality of the residential environment.

Section 8 - Treaty of Waitangi

This site is not within any known heritage sites or statutory acknowledgement areas and therefore, this recommendation is not inconsistent with the principles of the Treaty of Waitangi.

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

9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, consent is **granted** to subdivide 101 Robertson Street into two residential allotments subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Consent Conditions

1. The proposed subdivision must be undertaken generally in accordance with the application as submitted and the following plan: SC24028 – 101 Robertson Street titled “Proposed Subdivision of Lot 4 DP 4811”, prepared by Clark Fortune McDonald and Associates, dated May 10, 2024.

This plan is attached as Appendix A.

2. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder must provide to Council a written statement from a Licensed Cadastral Surveyor, accompanied by any necessary evidence, to the effect that all services are confined to their respective lots or provision has been made for suitable easements to be granted and reserved in the Land Transfer Plan where appropriate.
3. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council complete the following, in accordance with the details provided in the resource consent application and the standards contained in the Gore District Council Subdivision and Land Development Bylaw 2019:

- a. The provision of a new water supply connection to the property boundary of Lot 1. The connection requires an Acuflo CM2000 manifold installed in a blue box outside of the boundary for servicing.
 - b. Provision of new wastewater connection to Lot 1 with a cleaning eye approximately 300mm outside the property boundary with a red lid for servicing. This will need to be a cast iron lid if it is in a trafficable area.
 - c. Provision of new stormwater connection to Lot 1 with a cleaning eye approximately 300mm outside the property boundary with a green lid for servicing. This will need to be a cast iron lid if it is in a trafficable area.
 - d. Provide all quality assurance and as-built information required for the development in accordance with the Gore District Council's Subdivision, Land Use and Development Bylaw 2019.
4. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, complete the following:
- a. The existing vehicle crossing for Lot 1 and Lot 2 shall be upgraded by constructing reinforced concrete from the back of the footpath to the property boundary in accordance with Diagram R03 "Standard Drop Crossing Details" contained in the Gore District Council Subdivision and Land Development Bylaw 2019.
 - b. The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out in relation to this consent.

Advice Notes

1. 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 any subdivision or constructing of buildings. Any future development on Lot 1 will be subject to these plans and will be assessed at the building consent stage.
2. All 3 Waters Infrastructure to be vested into Council ownership will need to be completed by one of the Council's approved 3 Waters Contractors – refer to the following link for further details regarding this - <https://www.goredc.govt.nz/services/3-waters/approved-contractors>
3. All engineering works (including vehicle access, servicing and earthworks) shall be carried out in accordance with the standards in the Gore District Council's Subdivision, Land Use and Development Bylaw 2019.

Note: The document is available on Council's website via the following link: [Subdivision and Land Development Bylaw 2019.pdf \(goredc.govt.nz\)](https://www.goredc.govt.nz/subdivision-land-use-development-bylaw-2019.pdf)

4. Refer to the following link for details of the process to be followed for installing new connections to the Council's 3 Waters networks - <https://www.goredc.govt.nz/services/3-waters/service-connections>

5. All works within the road corridor shall be undertaken by a Council approved roading contractor. A corridor access request must be submitted to the Council's Roding Department for its approval prior to any work being carried out in the road corridor.

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.

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



Mishka Banhidi
Consultant Planner

Decision made by



Penny Weng
Delegate

Appendix A: Approved Plan

APPENDIX A – APPROVED PLAN

