

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC 24011
Applicant	Craig Winsloe
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for Subdivision Consent
Location	11 & 13 Gilbert Street, Gore
Legal Description	Lot 3 DP 4307
Activity Status	Restricted Discretionary
Decision Date	17 May 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 17 May 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 Werner Murray, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

Consent is sought to undertake a two-lot subdivision to create one additional lot as follows:

Lot 1: some 400m²

Lot 2: some 515m² of land retaining physical access to Gilbert Street by way of a leg-in layout.

The dwelling and structure shown in aerial photos on both proposed Lot 1 and Lot 2 have been cleared and the site is now empty.

Access to Lot 2 is proposed to be via a leg in layout along the northern boundary of the site as shown below in Figure 1. An existing drop kerb crossing and concrete formed entry exists, although this may need to be extended to the north to fit with the position of the leg-in access strip. Access to lot 1 will remain via an existing drop kerb crossing and concrete formed entry.



Figure 1: Scheme plan of proposed subdivision

2. SITE DESCRIPTION

The subject site is located at 11 & 13 Gilbert Street and is legally described as Lot 3 DP 4307 and is comprised in Record of Title SL11C/122. The site is 916m² and is located in the Residential A zone. The site is flat and characterised by lawn and scattered trees. The surrounding area of the property is predominately residential in character and use.

The section is on the west side of Gilbert Street. Mr Murray Hasler, Council's Roading Manager, has confirmed access is via a local urban low volume access road. Gilbert Street is chip sealed and has existing grass verge at the edge of the carriageway on both sides, concrete kerb and channel and footpath on the west side only then another grass strip before the property boundary. Gilbert Street is flat and straight. A 50kph speed restriction applies to Gilbert Street.

The site is not identified as being within any area of flood inundation and has negligible liquefaction risk as identified on the Gore District Council's mapping system.

The Record of Title does not contain any interests relevant to subdivision. The title is subject to Part IV A Conservation Act 1987 and the Crown retains mineral ownership. This has no effect on the proposal.

3. ACTIVITY STATUS

3.1 Gore District Plan

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

- A **restricted discretionary** activity pursuant to Rule 8.10 [4](c) to undertake a two-lot subdivision within the Residential A zone as both new lots have a minimum area of 400m².

The Council's discretion is restricted to the following:

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 of 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 applicants review of Local and Regional Authority 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 proposal requires consent as a **restricted discretionary** activity.

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 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, given all subdivisions require consent there is no baseline to apply.

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 both proposed lots for residential dwellings 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 lots 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 zone. The lots are both of suitable size and free of constraints to enable future 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); & impacts on the council and other infrastructure services;

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

Mr Green has confirmed that water supply connections to the property boundary of Lots 1 and 2 are necessary. The connection requires an Acuflo CM2000 manifold installed in a blue box outside of the boundary for servicing. Wastewater connections to lot 1 and lot 2 will need a cleaning eye approximately 300mm outside of the property boundary. Cleaning eye covers are to have a red lid for wastewater and will need a cast iron lid if it is in a trafficable area. The existing water and wastewater connections are to be capped at the main if no longer in use.

A request for further information was sent to the applicant's agent Mr. Ben Wilson regarding the life of the existing wastewater lateral who has volunteered a condition that both wastewater laterals will be replaced. All development shall be in accordance with the Gore District Council's Subdivision, Land Use and Development Bylaw 2019. These conditions of consent form part of the proposal and have been accepted by the applicant.

No reticulated stormwater services are available at the property. A consent notice has been volunteered by the applicant that stormwater will either be disposed to the ground or via the kerb, and any design must be approved by Council at the time of building consent for a building.

Overall, it is considered the lots can feasibly be serviced and adverse effects will be no more than minor.

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

The application and scheme plan does not show a fixed building platform location on proposed Lot 1 or Lot 2. It is considered unnecessary to require fixed areas for building platforms in order to reduce effects as residential standards within the District Plan will apply to all future buildings and effects managed through these standards.

There are no existing easements for the proposed lot 1 and lot 2 and it is considered that the leg in access strip will negate the need for an access easement. Should any additional easements 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; 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

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

The access standards contained in the Gore District Council Subdivision and Land Development Bylaw (the Bylaw) apply to this proposal. The sight distances at the proposed vehicle access for both sites meet the requirements listed in Table 3.3B of the Bylaw. It is recommended that both accessways are chip sealed at the applicant's cost.

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

Overall, it is considered both lots can be accessed, and any adverse effects relating to transport 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 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 who are assessed below are all of the owners and occupiers of the properties that are identified as being affected from the proposal. These are demonstrated in Figure 2.



Figure 2: Neighbouring properties identified by red dots.

The subdivision meets the standard for minimum lot size for the Residential A zone. The District Plan has therefore anticipated the adverse effects associated with future development of this density on such lots and deemed it appropriate. It is considered that the effects associated with such future development on any adjacent persons will be less than minor. Future development on proposed Lot 1 and Lot 2 is required to adhere to the 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 the residential use of a residential zone and proposes a level of density anticipated by the District Plan.

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 special circumstances that warrant limited notification of the application.

5. DECISION PURSUANT TO S95A AND S95B OF THE RMA

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

6. SECTION 104 ASSESSMENT

6.1 Matters for Consideration

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

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

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

6.2 Effects on the Environment

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

6.3 Relevant Provisions

District Plan

The relevant operative objectives and policies are contained within Chapter 8 – Subdivision and Chapter 3 - Land Use Activities of the District Plan.

The applicant has addressed the relevant objectives and policies for this proposal 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 Gilbert 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 11 & 13 Gilbert Street, Gore into two residential allotments subject to the following conditions imposed pursuant to 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: SC24011 – 11-13 Gilbert Street titled “Proposed Subdivision of Lot 3 DP4307 [SL11C/122].
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 Officer of the Gore District Council, complete the following, in accordance with the details provided in the resource consent application.
 - a. The provision of water supply connection to the nett area of lot 2. The connection requires an Acuflo CM2000 manifold installed in a blue box outside of the boundary for servicing.
 - b. Provision of wastewater connections to the property boundary area of lot 1 and, the net area of Lot 2, with a cleaning eye approximately 300 mm outside the property boundary. Cleaning eye covers are to have a red lid for wastewater and will need to cast iron lid if it is in a trafficable area. The Applicant must provide evidence that the existing wastewater laterals are in good condition with an expected life of 50 years, or cap the existing connections and install new connections.

- c. 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 unsealed area between the edge of the carriageway and the kerb for the existing vehicle crossings for both sites shall be upgraded to chip seal at the applicants cost and comply with the Gore District Council Subdivision and Land Development Bylaw 2019.
 - b. The existing access for Lot 2 shall be extended as required to fit with the position of the leg in access strip.
 - c. The leg in access strip shall be formed in compliance with the Gore District Council Subdivision and Land Development Bylaw 2019
 - d. 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.
5. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be issued for registration against the Record of Title for Lot 1 and Lot 2 to record that:
 - a. Stormwater disposal (kerb discharge or on-site soakage as appropriate) is to be designed subject to council approval at the time of building consent for any future buildings on the site.

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.
2. 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 \(goredc.govt.nz\)](#)

Refer to the link for details of the process to be followed for installing new connections to the Council's 3 Waters networks.

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



Joanne Skuse – Senior Planner

Decision made by



Werner Murray - Delegate

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS

