

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC24007 and LU24008
Applicant	Adam Newton Homes Ltd.
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a five-lot residential subdivision. Land use consent for a breach of density, site coverage and daylight admission.
Location	19 – 23 Hyde Street, Gore
Legal Description	Lot 1 DP 222, Lot 2 DP 222, and Lot 2 DP 169
Activity Status	Discretionary
Decision Date	20 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 20 May 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 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 5-lot residential subdivision as follows:

- Lot 1 being 959m² gross area, 860m² net area. The site contains an existing residential building occupied as three residential flats. It is unknown when these flats were established. A building permit for plumbing works on Council records was approved in 1991, in which the plan identifies the building being utilised as 3 flats. The site has legal frontage to both Hyde Street and Green Street, serviced by three existing vehicle crossings. One vehicle crossing is from Hyde Street and two from Green Street. A right of way access from Green Street is proposed over the lot, as shown by Area C on the scheme plan, to provide access to Lots 4 and 5. No physical changes are proposed to the building on Lot 1.

The existing building currently crosses the western boundary and is subject to a certificate pursuant to Section 77 Building Act 2004, such that the titles are held together. The proposed subdivision will rationalise the boundary around the building on Lot 1.

- Lot 2 being 368m² gross area, 318m² net area. The site contains an existing residential dwelling. Access is from Hyde Street via a reciprocal right of way. This is identified as areas A and B on the scheme plan.
- Lot 3 being 368m² gross area, 338m² net area. This contains an existing residential dwelling. Access is from Hyde Street via a reciprocal right of way. This is identified as areas A and B on the scheme plan.
- Lot 4 being 368m² gross area, 368m² net area. This contains an existing residential dwelling. Access is proposed from Green Street via a right of way over Lot 1 and Lot 5. This is shown as areas C and D on the scheme plan.
- Lot 5 being 368m² gross area, 284m² net area. This site is currently vacant. Access is proposed from Green Street via a right of way over Lot 1, shown as area C on the scheme plan.



Figure 1: Proposed Scheme plan with accesses labelled 1 – 5.

Services

There are existing services in place for the dwellings on proposed Lot 1, 2 and 3. Lot 1 services are connected to Council reticulated services in Green Street while Lot 2 and 3 are connected to Council reticulated services in Hyde Street and have on-site stormwater disposal via soakage pits. These services are intended to be retained.

The building consents for the residential buildings on Lot 2 and 3, approved four individual services connections for four buildings to be connected to; two connections for the front transportable houses and two connections for two future residential building at the back of the allotments, as reflected by figure 2. These services have been installed to the proposed boundaries of Lots 4 and 5 and will be legally protected by easements A and B. The position of the services in relation to the boundary will be confirmed at the time of survey and any easements found to be necessary will be created at s223 certification stage.

**AS-LAID
DRAINAGE PLAN**

[Amendment to consented foul and stormwater drainage plan]

Consent No. 210018-210019

Site Address: 19-21 Hyde St

Applicant: Adam Newton

Certifying Plumber: Quinlan Coys

Registration No. 24666

Signature: [Signature]

Certifying drain layer: Quinlan Coys

Registration No. 24666

Signature: [Signature]

Date completed: 6/10/2023

Please show the following items:

1. Footprint of the building (scale 1:100)
2. Foul water drains (red ink)
3. Septic tank and effluent lines (red ink)
4. Stormwater drains - including down pipe positions (blue ink)
5. Existing drains (black ink)
6. Water supply line (green ink)
7. Toby shut-off valve
8. OT - Gully trap positions
9. TV - Terminal vent positions
10. IP - Inspection points
11. Under slab drainage
12. Falls and invert levels

Scale drawn: 1:200

[Plans shall not be drawn in pencil]

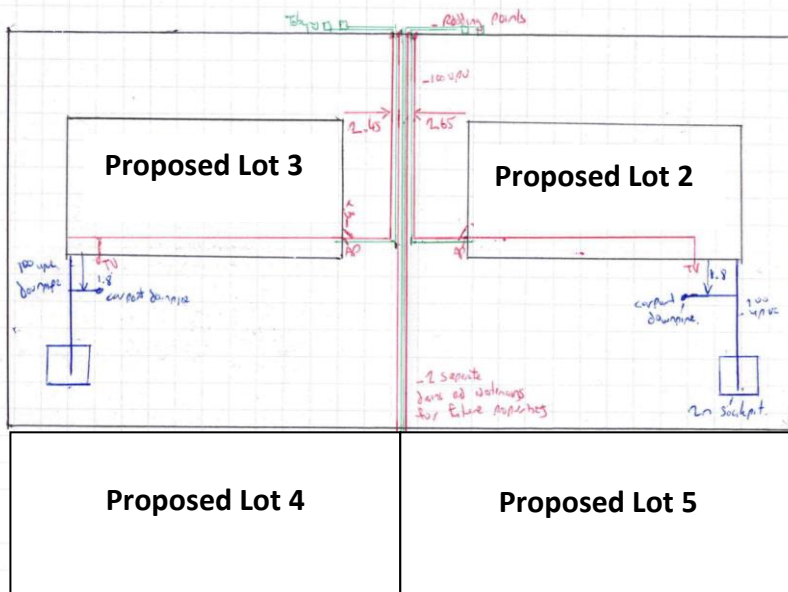


Figure 2: As-Laid Drainage plan showing four individual services connections to the four individual lots.

It is proposed when residential activity occurs on either of these lots that they will have on-site stormwater disposal. Lot 4's on-site stormwater disposal has been assessed and deemed suitable under BC 211154. Lot 5 will be required to have on-site stormwater disposal for future when residential activity occurs.

Lots 1 – 3 have existing power connections in place. These will be retained. Lots 4 and 5 are proposed to have power supply from Green Street, with easements to be created as needed and confirmed at s223 certification stage. Confirmation of supply availability has been provided by Powernet (reference: email from Fraser Neil dated 12.03.24).

Lots 1 – 3 have existing telecommunications in place. These will be retained. Lots 4 and 5 are proposed to have new connections from Green Street. Easements are to be created as needed and will be confirmed at s223 certification stage.

Land Use

Three residential units have been established on Lot 2 Deposited Plan 169 and Lots 1-2 Deposited Plan 222. These three existing allotments are subject to a certificate pursuant to Section 77 Building Act 2004, such that these three titles are held together. Under the National Planning Standards, a site is defined as meaning 'an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be dealt with separately without the prior consent of the council'. The three allotments are therefore viewed as one site in this assessment.

The District Plan enables up to six residential units on a property without a resource consent, provided the site area is no less than 400m² for each residential unit. The total gross area of Lot 2 Deposited Plan 169 and Lot 1-2 Deposited Plan 222 is 2427m² and therefore could accommodate the

three units as a permitted activity. Now that two additional lots are proposed for a future dwelling, and access areas and boundaries have been confirmed, the 400m² net site area per unit cannot be met, resulting in a density breach on Lots 2 – 5. Lot 2 net area is proposed to be 318m², breaching density required in the Residential A Zone by 82m². The net area of Lot 3 is 338m², meaning that density is breached by 62m² and Lot 4 net area is 368m², breaching density by 32m². While Lot 5 will only have a net area of 284m² to build a future residential building, breaching density by 116m².

The subdivision will create four residential lots with an area less than 400m². Land use consent is sought for residential activity on the sites created by the subdivision.

In addition, buildings and structures must not exceed 40% of the site area and meet bulk and location standards of the Operative District Plan. Lot 1 requires land use consent for the breach of site coverage given the existing dwelling and carports (which falls under site coverage definition) being a total area of 390m². This therefore breaches the 40% site coverage of the 959m² net area of the site by 5%. The existing transportable buildings on the site range between 96-98m² in area on the proposed 368m² lots, thus not exceeding the 40% site coverage of the proposed allotment areas permitted in the Residential A Zone.

All of the existing buildings on the proposed lots meet the required setback requirements for the Residential A Zone. The buildings on Lots 2 and 3 are setback 1.05m from the internal boundary of the right of way. The District Plan also permits structures to be built providing it does not breach daylight admission. Land use consent is sought for the daylight admission breach between the existing dwelling on Lot 1 and existing dwelling on Lot 2 created by the location of the proposed boundary between Lots 1 and 2.

2. SITE DESCRIPTION

The site is legally described as Lot 1 DP 222, Lot 2 DP 222 held under the Record of Title SL8D/673 and Lot 2 DP 169 held under the Record of Title SL75/158 also known as 19, 21 and 23 Hyde Street. These three existing allotments are subject to a certificate pursuant to Section 77 Building Act 2004, such that these three titles are held together.

The site is located in the Residential A Zone. Both Hyde Street and Green Street are identified as an urban access road with chip seal. The surrounding environment is comprised of residential dwellings to the west, south and east of the site. North to the site is Hyde Park in the Mixed-use Zone, separated by Hyde Street.

The Council's mapping system identifies the site as being prone to flooding subsequent to a stopbank breach or stopbank overtopping. Policy 4A.4 of the District Plan holds that in respect of any development in the urban area of Fore shown as 'lime green' on the District Planning maps, encourage:

- (i) The adoption of flood proofing techniques or other measures to avoid the adverse effects of flooding on the activity;
- (ii) Measures to avoid the adverse effects of the activity on other property during a flood.

The existing buildings on site have been constructed in accordance with the District Plan under the relevant building consents.

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.

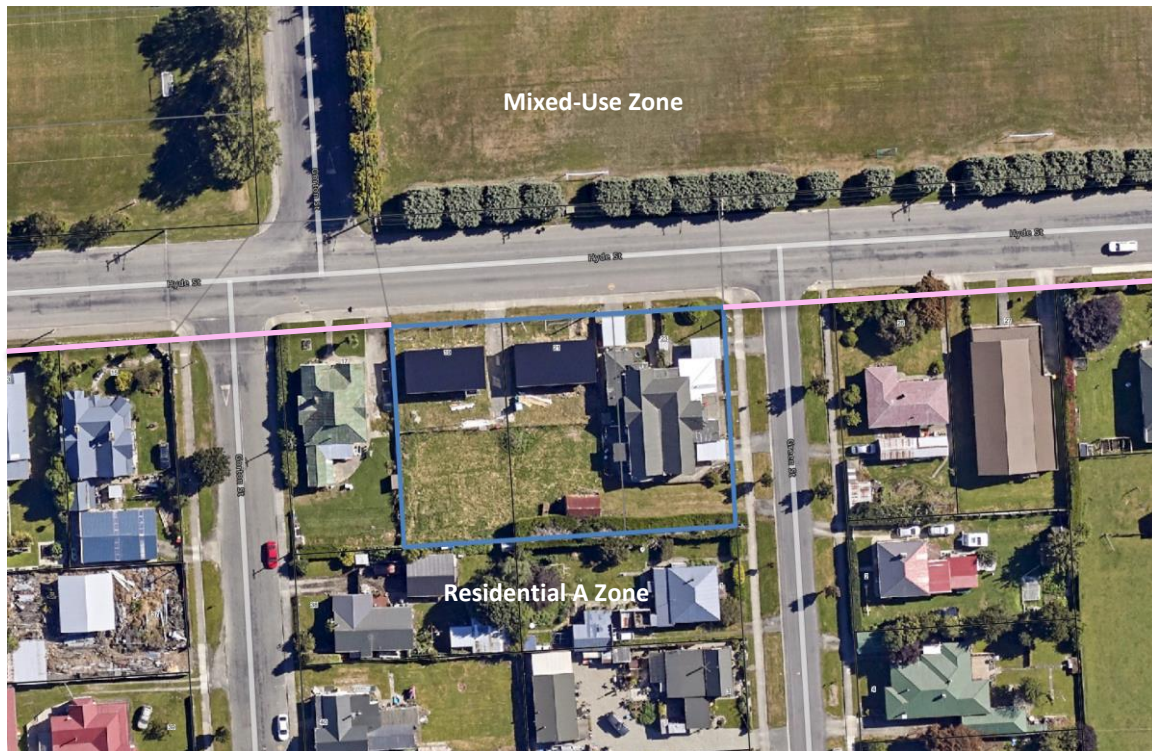


Figure 3: Subject site outlined in blue and the surrounding environment. Pink line indicates the Residential A and Mixed-use zone boundary.

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 reasons:

Subdivision

- A **discretionary** activity pursuant to Rule 8.10(5) to undertake a five-lot subdivision of the site, where Lots 2 – 5 does not comply with the provisos of 4(c), which requires each lot to have a minimum lot size exceeding 400m² in area. Lots 2 – 5 will all have 368m² gross area.

Land Use

- A **discretionary** activity pursuant to Rule 4.2.4 as the proposal results in a residential activity on Lots 2 – 5 less than 400m², in the Residential A zone.
- A **restricted discretionary** activity pursuant to Rule 4.7.1(2) as the proposal breaches standard 4.7.1(1)(b) in regard to daylight admission. The existing buildings on Lot 1 and Lot 2 will be non-compliant with this rule.
- A **restricted discretionary** activity pursuant to Rule 4.9.1(2) as the proposal breaches standard 4.9.1(b). The existing building and carports on Lot 1 breach the 40% site coverage permitted for a site in the Residential A Zone.

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.

3.3 Activity Status Summary

Overall, the application is being considered and processed as a **discretionary** activity under the District Plan.

4. NOTIFICATION ASSESSMENT

Sections 95A – 95F (inclusive) of the Resource Management Act 1991 (‘RMA’) set out the steps the Council is required to take in determining whether or not to publicly notify an application or notify on a limited basis.

4.1 Public notification – Section 95A

In accordance with section 95A, the following steps have been followed to determine whether to publicly notify the resource consent application:

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

- The applicant has not requested public notification.
- Public notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA.
- The application does not involve exchange to recreational reserve land under section 15AA of the Reserves Act 1977.

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are 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 all subdivisions require resource consent, there is no permitted baseline.

It is permitted to establish a single residential unit on a lot provided the lot is greater than 400m². In relation to land use, it is a permitted activity to establish up to six residential units on one site provided they have a net site area of 400m² each. The proposed residential activity on Lots 2 – 5 breach density, as the net area available for residential development after setting aside land for access, is less than 400m². Lot 2 will breach density by 82m², Lot 3 will breach density by 62m² and Lot 4 will breach density by 32m². While Lot 5 will breach density by 116m². Residential units must be setback 4.5m from the road boundary and 1m from any internal boundary providing they do not breach the recession plane. Residential units can be built on the site provided they do not exceed 40% of the site coverage. This permitted baseline, in relation to setbacks and coverage is considered of relevance and applied to the land use assessment below.

Land Use

Density Breach

The subdivision will create lots smaller than 400m² which will contain residential activity. The lots are 368m² in area, which is 32m² smaller than the minimum 400m² area required per residential unit under the District Plan. However, once it has taken into account the land set aside for access, the developable land for residential activity on Lots 2 – 5 results in a smaller net area as identified above in the permitted baseline. The density breach of this ranges from 116m² to 32m².

Both Lot 2 and Lot 3 have existing residential buildings on site. Lot 4 has a residential dwelling on site pending building consent. The existing built form demonstrate there is sufficient space onsite for a dwelling whilst allowing for outdoor space, despite the area of the site being smaller than the

required 400m². These buildings are 96-98m² in area each on a 368m² area site, falling under the 40% site coverage and being setback more than 1m from side boundaries and 4.5m from the front yard boundaries, meeting bulk and location standards of the District Plan. Due to the setback distances and height of the single buildings on Lot 3 and 4, daylight admission is not breached. Whilst the four lots are smaller than anticipated by the District Plan due to the right of ways, the size of the parent lots (Lot 2 DP 169 and Lot 1 DP 222) are each 809m² in area. The existing building on Lot 1 has been built over the west boundary, limiting the available area on Lot 1 DP 222 (proposed Lot 2 and Lot 5). The new proposed subdivision boundary being shifted west, although resulting in a smaller area of Lot 2, has reflected the true positioning of the respective buildings on Lot 1 and Lot 2 to contain the building and services within the boundaries.

Under the District Plan, subdivisions down to 400m² sites are anticipated, and therefore, the provision for four units on the site is not out of character. Furthermore, the site density when viewed as an average does not exceed 1 unit per 400m². This is representative of the infill development pattern within the wider Gore residential area.

Future residential activity on Lot 5 can be accommodated due to the regular shape and dimensions being 18.3m by 15m. In addition, the site is a rear lot, where it will be located behind two existing residential buildings on Lot 1 and Lot 2. These will act as a screen from the surrounding environment to any future residential development on a smaller lot, and not be readily visible to the occupants of Hyde Street and Green Street. The breach in lot size will not result in adverse effects from over-development of the site or negatively affect the streetscape and wider area, noting district plan bulk and location standards will apply to a future dwelling and any breaches would need to be assessed on their merits.

Overall, the adverse effects on the environment from the proposed density breach are considered to be no more than minor.

Site Coverage

The existing building utilised as three residential flats on Lot 1 will result in a breach of site coverage. The building and the three individual carports' footprint is 390m² on the 959m² lot. This breaches the 40% site coverage of the 959m² net area of the site by 5%. The current area of the lot is 860m², the subdivision is increasing the area of the lot by 99m² as the west boundary is being shifted to the west to represent the building footprint. This reduces the existing breach occurring on the site. As the building is existing, the breach of the site coverage and the adverse effects on the streetscape are also existing to the wider environment, thus the adverse effect of this breach is no more than minor.

Daylight Admission Breach

A daylight admission breach will result for the existing two buildings on Lot 1 and Lot 2 due to the location of the buildings and the new proposed boundary. Both of these buildings are setback 1m from this internal boundary. A building is permitted to be built setback 1m from the boundary provided it does not breach the daylight admission Diagram 4.2 – Recession Plane of the District Plan.

The non-compliance of this rule is resultant of a boundary location change between two existing buildings to reflect the building position on Lot 1 extending over the existing west boundary. Adverse effects will be localised to the owners and occupiers of Lot 1 and Lot 2. The building on Lot 2 is located in a slight forward direction to the north of the existing building on Lot 1, where it is located adjacent to a carport and access area to Lot 1, resulting in Lot 2 building to face a wall. While the building on Lot 2 has been positioned to face north towards Hyde Street with minimal windows facing the west

boundary. Due to this, any future owners and occupiers of the respective buildings will be aware of this breach. As the buildings are existing and the breach is the result of this boundary change the adverse effects of this breach will not be more than minor.

Subdivision

Suitability of the allotments and future land use

The subdivision layout proposes five allotments in the Residential A Zone. Lot 1 will be 959m² in area containing an existing residential building, meeting the minimum 400m² gross area specified in the Gore District Plan for the Residential A Zone. Lots 2 – 5 will however be under the minimum 400m² gross area anticipated by the District Plan. Although these lots are smaller than what is anticipated, the proposed buildings on Lots 2-4 are existing and demonstrate the lot's ability to accommodate a residential activity, albeit with small scale bulk and location breach, mostly effecting Lot 1. As identified above in density, the existing buildings on Lots 2 - 4 are single storey three-bedroom between 96-98m² in area, not breaching site coverage. Each building has an outdoor area at the front and back area for onsite parking.

The applicant has applied for a land use consent for various bulk and location non-compliances. As such, the application for subdivision and land use breaches can be assessed as a whole. The extents of the building standard non-compliances are generally small-scale. As assessed above, the effects on the land use breaches will be no more than minor. The residential units when viewed as a complete project illustrate compact development of a site with allotments that are appropriate for residential purposes.

The scheme plan and drainage plan provided by the applicant has reflected the new proposed boundaries are able to contain the existing residential activities and associated carports on lots 2 – 4. Services in respect to onsite stormwater disposal can be contained within the respective lot boundaries. The site plan for the recent building permitted on Lot 4 provides an overall indication of the existing buildings on site and the new areas to be utilised for access from Green Street. These plans have been attached in Appendix A.

Any future residential development on Lot 5 will be required to meet the bulk and location standards of the District Plan as assessed above. The scheme plan reflects a logical allotment layout for the existing residential activity on site. The buildings are orientated north facing to maximise sun positioning and access to outdoor space.

The sites have logical physical and legal access. The reciprocal right of ways to be utilised by Lots 2 and 3 and Lots 4 and 5 is consistent with the infill subdivision pattern in the Gore Residential zone.

Based above on the assessment, the adverse effects of the lot areas being smaller than anticipated by the District Plan will be less than minor.

Suitability of land for subdivision – Natural Hazards and other Hazards

The subject site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site. The Council's mapping system, which sources information from Environment Southland, identifies the site's liquefaction risk as negligible.

The Gore District Council's mapping system identifies the site as being prone to flooding subsequent to a stop bank breach or stop bank overtopping. The applicant has volunteered a consent notice on

the record of title for all lots, being Lots 1 – 5, recommending the landowner to adopt flood proofing techniques to mitigate flood effects. The consent notice will highlight that the properties are subject to an inundation hazard due to a stop bank breach.

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

Ability to provide services

Council's 3 Waters Department have reviewed the application and confirmed that the lots can be feasibly serviced.

Lots 1 – 3 all have existing services to the boundaries. These are intended to be retained.

Services in respect of potable water and wastewater have been installed to the boundaries for Lot 4 and 5 as reflected by the as-laid drainage plan (figure 2). These services are intended to be retained for the future residential development on these lots.

Stormwater is required to be dealt with onsite via an onsite soakage system for Lots 4 and 5. This design is to be addressed at the building consent stage.

The application demonstrates that Powernet have confirmed electricity is available for the proposed lots, and additionally telecommunications are available.

Based on the above, the adverse effects on the environment from the proposed servicing of the subdivision will be less than minor.

Impacts on heritage, archaeological values, natural features, landscapes and water quality

There are no known heritage or archaeological features, or values identified on the site. The subject site is located outside of any mapped significant natural features and landscapes, or areas shown as having identified ecological or cultural values.

The proposed subdivision will not have noticeable effects on the water quality in the surrounding area as services are connected to the reticulated network and stormwater is disposed on-site for the existing residential units on Lots 1-4. Lot 5 is proposed to have onsite stormwater disposal as well.

Overall, the adverse effects on the environment are considered to be less than minor.

Effects on traffic

The Council's Senior Roading Operations Officer, Mr Murray Hasler, has reviewed the application. A summary of his assessment is provided below.

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

The site is located on the southwest corner of Hyde Street and Green Street. Both streets are classified as an urban collector road and has a chip sealed surface. These sections of the road have a 50kph speed limit. Both have an existing concrete kerb and channel at each edge of the carriageway.

Green Street has a mountable concrete kerb with a grass verge to a concrete footpath, this is followed by another grass verge to the property boundary.

There are two existing drop crossings from Hyde Street and three drop crossings from Green Street that service the overall site. All these accesses meet the sight distances set out in Table 3.3B of the Bylaw.

The existing drop crossing from Hyde Street servicing Lots 2 and 3 is in accordance with the Bylaw. It is 4m wide and provides access to the reciprocal right of way shown as area A and B on the scheme plan.

There are three existing drop crossings that service the 3 individual flats on Lot 1 from both Hyde and Green Street. These are chip seal vehicle crossings from the kerb. It is recommended the individual accesses are extended with reinforced concrete from the footpath to the property boundary in accordance with Diagram R03 'Standard Drop Crossing Details' contained in the Bylaw. This recommendation has been accepted by the applicant.

The south drop crossing to the site from Green Street will service Lots 4 and 5. This is also a chip seal vehicle crossing from the kerb. This is required to be upgraded in accordance with Diagram R03 'Standard Drop Crossing Details' contained in the Bylaw. This includes reinforcing the driveway with concrete to the boundary.

On this basis, Mr Hasler recommended that the application be approved from the transportation perspective. In reliance on Mr Hasler assessment and recommendations the adverse effects of traffic are no more than minor.

Provision of easements

A reciprocal right of way is proposed to allow vehicle access to both Lot 2 and Lot 3. This is shown as area A and B on the scheme plan.

Access to services for Lots 2 – 5 are proposed via the right of way shown as Area A and B on the scheme plan.

A right of way is shown as area C on the scheme plan to allow vehicle access to Lot 4 and Lot 5. This will also allow the right to convey electricity and telecommunications to these lots too.

At the time of survey, all necessary easements will be confirmed and registered onto the relevant record of titles. Adverse effects on the wider environment are considered to be less 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.

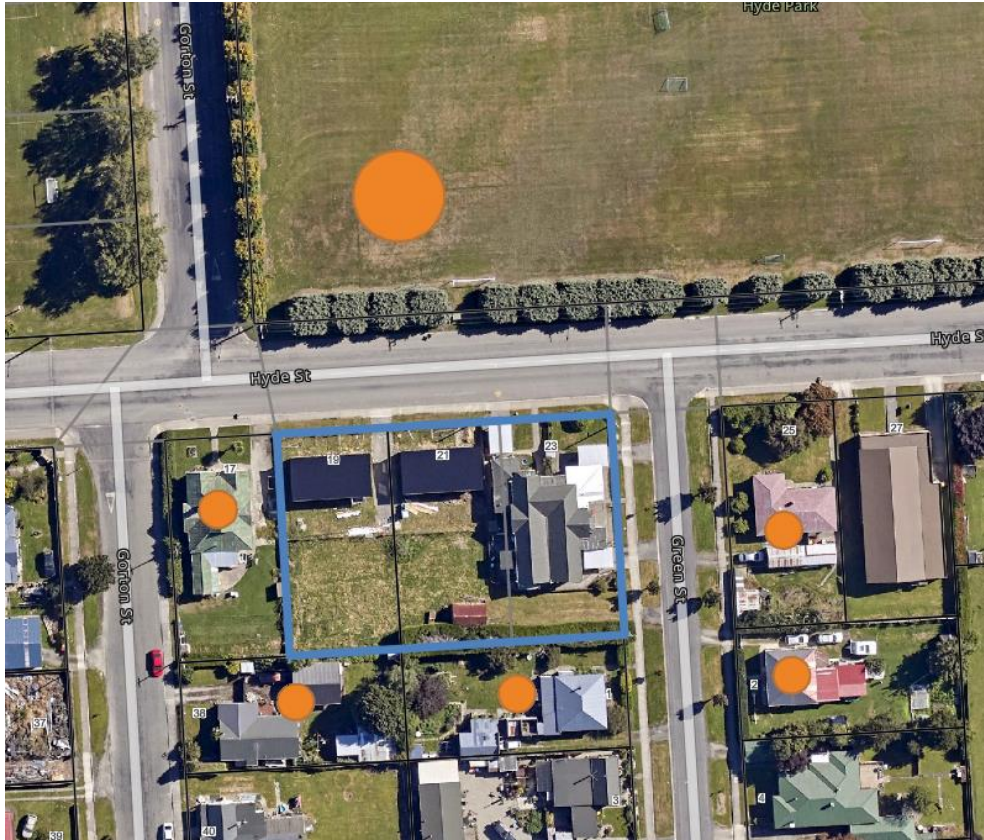


Figure 4: Subject site outlined in blue and orange dots indicate surrounding neighbouring properties.

Land Use Assessment

Hyde Park

Hyde Park is located in the Mixed-Use Zone. Though currently vacant, it is likely to be developed in the future and could contain a mix of activities such as commercial and residential. The subject site is separated by the wide road verge of Hyde Street. The buildings with legal frontage to Hyde Street are existing and the proposed subdivision will not alter the amenity and characteristics. Any adverse effects upon the owners and occupiers of Hyde Park are considered to be less than minor.

25 Hyde Street

This property is located to the east of the subject site across Green Street and contains a residential unit and garage. The property has legal road frontage with vehicle access to Green Street. The positioning of the house is north-east facing with few windows located on Green Street side. From this property, views of the subject site are limited to the existing residential dwelling on Lot 1. This will act as a screen to the future residential development on the proposed lots coupled with the

width of Green Street to provide separation and buffer from the proposed activities. Any adverse effects upon the owners are considered to be less than minor.

17 Hyde Street

This property is currently located to the west of the subject site. It contains a residential dwelling that is not currently occupied. On the subject site the existing dwelling at the front of the section (on proposed Lot 3) has been located here since the building consent was issued in 2021. To the rear of the section (proposed Lot 4) the transportable building is on site on stilts awaiting building consent approval. The parent lot area is 809m² and would permit two residential units on site, however as part of the developable area has been utilised for access, this has resulted in a smaller area than 800m², creating a density breach. Although density has been breached the buildings meet the bulk and location standards and are relatively modest in size and reflect representative infill development of the residential zone. Any adverse effects upon the owners are considered to be less than minor.

38 Gorton Street

This property contains a residential dwelling. It will share a boundary with proposed Lot 4 only. In this respect the effects of the density of the development will not be overly noticeable to these persons. The building proposed on Lot 4 has been assessed and meets the bulk and location standards of the District Plan. Overall, it is considered that there are less than minor residential character, visual amenity and nuisance effects on the owner of this property.

1 Green Street

This property adjoins the site to the south and contains a residential dwelling with legal frontage to Green Street. The site will share a boundary with Lot 1 and Lot 5. The proposed subdivision will rationalise the boundaries around the existing building on Lot 1. No physical changes to the building or activity on Lot 1 are proposed.

Any future residential activity on Lot 5 will be subject to the bulk and location standards and will represent the character of infill development occurring the residential zone. Additionally, the visual appearance of any future residential development will be similar to that of the existing residential dwellings in shape and built form. Any future building would be subject to the 3.5m right of way setback requirements under the Bylaw, which would maintain privacy and a separation buffer to this property.

With two residential buildings proposed to utilise the right of way from Green Street, the traffic generated from the site will increase when compared to a single unit, however not by much. The adverse effects of traffic will not be more than minor.

Any noise generated from the future residential development would be separated by the right of way, which is required to be designed to be a minimum width of 3.5m under the Bylaw. As the house on the property is positioned in the centre, with an outdoor space between the house and the boundary of Lot 1 and 5, this and the proposed right of way will provide a separation distance to buffer any noise or visual effect on the owners and occupiers of this property.

Overall, it is considered that there are less than minor adverse effects on the owner of 1 Green Street from the proposed subdivision development.

Subdivision Assessment

It is considered that the proposed subdivision will maintain the character of the residential area. Although lots 2 – 5 are smaller than the anticipated lot size for the Residential A Zone, these lots are of a shape and size that accommodate the existing buildings as reflected by the existing dwellings on site.

Existing amenity values will not be altered to an unacceptable degree given the parent lot size. The consequent increase in density, and associated effects such as noise and traffic generation will be less than minor given that both Hyde Street and Green Street are utilised for access.

The subdivision would maintain the safe and efficient function of the Council's roading network, any effects relating to traffic generation are considered to be less than minor for any adjacent owners and occupiers.

The lots can be feasibility serviced such that adverse effects on the identified neighbouring persons will be less than minor.

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 of Land

Objectives

- (1) To facilitate the orderly subdivision and development of land.*
- (2) To ensure that the size and shape of new allotments created, and the design standards for access and infrastructure, is suitable and appropriate for the location and future use of the land.*
- (3) To ensure that developers pay all reasonable costs associated with the subdivision and subsequent development of land.*
- (5) To ensure land development and servicing is undertaken to Council's standards.*
- (7) To ensure that land subdivision results in allotments that are suitable for activities anticipated by the zone in which they are located.*
- (8) Avoid adverse effects on water quality, including groundwater, from the development of subdivided land.*

Policies

- (1) Control the subdivision of all land.*
- (2) Avoid the adverse effects of subdivision on the functioning of existing services, infrastructure and roading.*
- (3) Require the works associated with subdivision to be carried out in conformity with Council's standards.*
- (5) Avoid any off-site effects of development of subdivided land.*
- (9) Require land development to be undertaken in compliance with the Gore District Council Subdivision and Land Development Bylaw 2011.*
- (10) Have regard to the potential for the land subject to any subdivision consent, and other land in the locality to be further subdivided in the future.*
- (13) Have regard to the potential impacts arising from the subdivision and future use of land on water quality, including groundwater.*

The proposed subdivision is consistent with the objectives and policies in Chapter 8. The size and shape of the allotments, although smaller than the anticipated area of 400m² have been designed in an orderly layout to accommodate the existing residential development on site and suitable

residential development on Lot 5. The re-development of the site utilises the space available for residential use, showcasing an efficient use of the land. This is reflected by the existing buildings on lots 1 – 4 all being single three-bedroom dwellings on a lot with sufficient outdoor space. Lot 5 will be able to accommodate future residential activity given the shape, size, and layout of the lot, albeit a smaller footprint than the surrounding residential activity in the surrounding area.

The developer will pay all the reasonable cost for the development through installing the existing services to the sites and will upgrade the existing accesses from Hyde Street and Green Street in accordance with the Bylaw. The subdivision of the site will not provide adverse effects on the water quality with earthworks being minimal. The subdivision provides additional residential lots in the Gore residential area. No further subdivision is anticipated in the future given the size of the lots.

The adverse effects on the Council's existing services, infrastructure and roading has been assessed appropriately through the building consents for the existing residential development on the site.

Overall, it is considered that the subdivision has no adverse effects on the amenity and character of the residential area.

Chapter 3 – Land Use Activities – A Framework

Objectives

(1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area.

(2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality.

Policies

(1) Establish zones that reflect the characteristics and amenity values of the area.

(2) Control the adverse effects of land use activities on the environment.

The land use is appropriate and will not lead to adverse effects on the amenity and character of the surrounding area. The three existing buildings respectively on Lot 2, Lot 3 and Lot 4 on a smaller net area than anticipated by the District Plan, still maintains the character and amenity value of the Residential Zone as the residential activity on site complies with the bulk and location standards and the lots proposed are of a shape and design anticipated in the residential zone. Residential dwellings have been shown to be established on the site with sufficient space and area for outdoor space.

The site coverage breach on Lot 1 is of small scale and no physical changes are proposed to the building. The daylight admission breach for the buildings on Lots 1 and 2 is the result of the adjoining boundary between the lots shifting to the west. Due to the fact that there is an existing residential building on both sites, potential effects are established, internal to the site and no physical changes are proposed. Overall, the amenity and characteristics of the residential character of Hyde and Green Street will be maintained.

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

Southland Regional Policy Statement 2017

The proposed subdivision is in accordance with the Southland Regional Policy Statement 2017 (RPS). The application, although not compliant with the minimum lot sizes of the District Plan for residential

zones, is still able to maintain sustainable urban development anticipated by the RPS. The additional lots provide positive environmental, social, economic, and cultural outcomes in the Gore District, accommodating for a range of individuals in the district. The overall subdivision is not sporadic and reads in the residential zone as being appropriate for urban growth and development.

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 each allotment has a legal and physical access. The reciprocal right of way from Hyde Street for Lot 2 and 3 is in accordance with the Bylaw.

The existing three accesses to the flats on Lot 1 are to be upgraded whilst the right of way for Lots 1, 4 and 5 will also be upgraded in accordance with this.

In this case, the subdivision is within a flood hazard, subject to possible flooding in the event of a stop bank breach or overtopping event.

For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of-

- (a) the likelihood of natural hazards occurring (whether individually or in combination); and
- (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
- (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).

All of the buildings on site are existing and have existing use rights. The recent building development on Lots 2 – 4 have ensured that each of the buildings have a minimum floor height level of 600mm from ground level. This has followed the recommendations under the Natural Hazard Chapter 4A of the District Plan to adopt flood proofing techniques or other measures to avoid the adverse effects of flooding. Any future residential development on Lot 5 will be subject to Chapter 4A of the District Plan at building consent stage. The proposed subdivision of the land is therefore unlikely to accelerate material damage from natural hazards either 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 enable additional residential lots and dwellings to be constructed in the future. These additional lots will enable people and communities to provide for their social, economic and cultural wellbeing,

benefiting the community. As assessed above, the adverse effects of the proposal can be avoided, remedied, 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. It is considered the land use is appropriate within this residential landscape.

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 environment.

Section 8 – Treaty of Waitangi

This site is not within any known heritage sites or statutory acknowledgement areas. The proposal is not considered to be inconsistent with the principles of the Treaty of Waitangi.

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

9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B of the RMA, consent is **granted** to undertake a 5-lot subdivision of 23 Hyde Street subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Decision A – Subdivision

1. The subdivision shall be undertaken generally in accordance with the application made to the Council on the 18.03.2024 and the following plans:
 - Proposed Subdivision of Lot 1 DP 222 [SL8D/673] & Lot 2 DP 222 [SL8D/673] & Lot 2 DP 169 [SL75/158].
 - As-Laid Drainage Plan, Consent No. 210018-210019
2. Prior to Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved.
3. The consent holder shall meet the costs for the preparation, review, and registration of any easement instrument(s) on the relevant Record of Title.
4. 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.

5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Council Chief Executive Officer of the Gore District Council, or delegated officer, complete the following, in accordance with the details provided in the resource consent and the Council's standards.
 - a. Upgrade the existing vehicle crossing labelled 5 on the Scheme Plan from Green Street in accordance with Diagram R03 'Standard Drop Crossing Details' of the Bylaw. This will require construction of a reinforced concrete driveway to the property boundary.
 - b. Upgrade the vehicle crossings labelled 3 and 4 on the Scheme Plan from Green Street, such that the area between the footpath and the boundary is reinforced with concrete. Refer to Diagram R03 'Standard Drop Crossing Details'.
 - c. Upgrade the vehicle crossing labelled 2 on the Scheme Plan from Hyde Street, such that the area between the footpath and the boundary is reinforced with concrete. Refer to Diagram R03 'Standard Drop Crossing Details'
6. Prior to the certification of the subdivision pursuant to section 224 of the Resource Management Act 1991; a consent notice, in accordance with Section 221 of the Resource Management Act 1991, shall be issued for Lot 5 to record that:
 - a. An onsite stormwater disposal is required to be installed, details of which shall be provided at the time a building consent is submitted to the Gore District Council.
7. Prior to the certification of the subdivision pursuant to section 224 of the Resource Management Act 1991; a consent notice, in accordance with Section 221 of the Resource Management Act 1991, shall be issued for Lots 1 – 5 to record that:
 - a. The site may be prone to flooding subsequent to a stop bank breach or stop bank overtopping. In respect of any development, the landowner is encouraged to adopt flood proofing measures, such as raising the floor level of future buildings, to avoid the adverse effects of flooding on the property.

Decision B – Land Use

1. The land use breaches are permitted in generally in accordance with the application made to the Council on the 18.03.2024 and the following plans:
 - Proposed Subdivision of Lot 1 DP 222 [SL8D/673] & Lot 2 DP 22 [SL8D/673] & Lot 2 DP 169 [SL75/158].
 - As-Laid Drainage Plan, Consent No. 210018-210019
 - Site Plan, A01 Rev 2, Adam Newton 19 Hyde Street, dated 27-Feb-2024
2. The consent holder shall, to the satisfaction of the Council Chief Executive Officer of the Gore District Council, or delegated officer, complete the following, in accordance with the details provided in the resource consent and the Council's standards:

- a. Upgrade the existing vehicle crossing labelled 5 on the Scheme Plan from Green Street in accordance with Diagram R03 'Standard Drop Crossing Details' of the Bylaw. This will require construction of a reinforced concrete driveway to the property boundary.
- b. Upgrade the vehicle crossings labelled 3 and 4 on the Scheme Plan from Green Street, such that the area between the footpath and the boundary is reinforced with concrete. Refer to Diagram R03 'Standard Drop Crossing Details'.
- c. Upgrade the vehicle crossing labelled 2 on the Scheme Plan from Hyde Street, such that the area between the footpath and the boundary is reinforced with concrete. Refer to Diagram R03 'Standard Drop Crossing Details'

Advice Notes

1. This resource consent does not constitute a Building Consent under the Building Act 2004. You should consult with the Building Control Manager of the Gore District Council to obtain information on any Building Consents required to undertake development.
2. 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.
3. Any work carried out on the legal roadway require the prior approval of the Council and consent holder must consult with the Roding Department to ensure the appropriate processes are being followed and the work is being carried out to the correct standard. The work itself must be undertaken by a Council approved contractor.

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



Schedule of Proposed Easements

Purpose	Shown	Servient Tenement (Beneficial Land)	Dominant Tenement (Beneficial Land)
Right of Way & Services	A	Lot 2 Hereon	Lot 3 Hereon
Services	A	Lot 2 Hereon	Lots 4-5 Hereon
Right of Way & Services	B	Hereon	Lot 2 Hereon
Services	B	Lot 3 Hereon	Lots 4-5 Hereon
Right of Way Right to Occupy Electricity and Telecommunications	C	Lot 1 Hereon	Lots 4-5 Hereon
Right of Way Right to Occupy Electricity and Telecommunications	D	Lot 5 Hereon	Lot 4 Hereon

CLARK FORTUNE McDONALD
 LAND DEVELOPMENT CONSULTANTS
 200 Queen Street West, Suite 2000, Toronto, Ontario M5H 2G2
 Tel: 416-593-8888

**Proposed Subdivision of
 Lot 1 DP 222 [SL8D/673] & Lot 2 DP 222 [SL8D/673]
 & Lot 2 DP 169 [SL75/158]**

Client: Adam Newton Homes
 Notes: All boundaries are approximate only and subject to survey

Date: 08-03-2024

Scale: 1:300 @ A3

