

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	LU 2019/447/3
Applicant	KJ Adams Trust
Proposal	Application under Section 127 of the Resource Management Act 1991 (RMA) to amend Condition 1 of LU 2019/447
Location	32 Forth Street, Mataura
Legal Descriptions	Part Section 27 Block XVII TN OF Mataura Bridge Part Section 26 Block XVII TN OF Mataura Bridge
Activity Status	Discretionary
Decision Date	3 September 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 3 September 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**. An updated set of conditions of LU 2019/447 is provided in Appendix A of this decision. 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 change Condition 1 of land use consent LU 2019/447 (as varied by LU 2019/447/2), which authorises the establishment and operation of a contractor's yard at 32 Forth Street, Mataura, commonly known as K2 Contracting Limited.

Consent (LU 2019/447) was issued on 7 August 2019 and provided for K2 Contracting to establish a yard to park trucks, store culvert pipes, truck decks and other contracting associated yard activities. This is commonly termed as a contractor's yard and was considered to be an industrial use. As the subject site is located in a Rural Zone in the Operative District Plan, resource consent was required to establish the activity.

Since this consent decision was issued, a subsequent variation by the Applicant, being KJ Adams Trust was sought to allow amendments to the original consent. The following variation to LU 2019/447 has been granted:

- On 22 November 2019, approval was granted to amend Condition 1 to substitute a new site plan to show an ancillary building to be used as a storage and workshop area and the site office, which was previously left off in error.

The Applicant now proposes a variation seeking to authorise a change to Condition 1 of LU 2019/447 to allow for an additional shed to be constructed, and to acknowledge additional buildings on the site associated with the contracting activity.

KJ Adams Trust is proposing to add a 330m² shed, which will be 30m in length and 11m in width for storage. The shed will be located in the southwest corner of the site, setback 7m from the south boundary and 6m from the western boundary. Access to the shed will be from the existing access at 32 Forth Street.

The additional shed will not increase the activity on the site in respect to the volume of truck movements from the site each day, as it will be used for storage.

The applicant seeks to change Condition 1 of LU 2019/447, as follows (amendments are shown in **bold and underlined** and deleted wording denoted by ~~strikethrough~~ text):

1. The use and development must be in general accordance with the application for Resource Consent as originally determined on the 7 of August 2019, and the plans and descriptions which form part of that application, **and**
 - a. **The application and site plan submitted to Council on the 19 August 2024.** ~~except for the site plan which is now replaced by that endorsed and attached to this consent.~~

No other change to the proposal consented under LU 2019/447 is sought. Appendix A of this report outlines the full revised consent conditions for LU 2019/447.

2. SITE DESCRIPTION

The subject site is located south of the outskirts of Mataura, consisting mostly of pastoral land. The subject site comprises two parcels of land being Part Sections 26 – 27 Block XVII Town of Mataura Bridge, held in record of title SL6A/948, and commonly known as 32 Forth Street. The site consists of

an existing residential dwelling, a site office, multiple sheds and a large gravel working area utilised as the contracting yard. This spans across both allotments.

The proposed shed location is to be located along the west and south boundaries of the site on Part Section 26 Block XVII TN OF Mataura Bridge. It will be located in close proximity to the existing built form on the site.



Figure 1: Subject site outlined in blue

The northern and eastern boundaries of the site are surrounded by residential housing. To the west and south of the site is a rural property with a residential dwelling.

3. ACTIVITY STATUS

3.1 Resource Management Act 1991

It is proposed to change condition 1 of the land use consent LU 2019/447.

A **discretionary** activity consent is required pursuant to section 127(3)(a) of the RMA, which deems any application to change or cancel consent conditions to be a 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 no rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
 - a controlled activity; or
 - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Step 3 – Public notification is required in certain circumstances

- There are no rules in a plan or National Environmental Standard that require notification.
- A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor. An assessment in this respect is undertaken as follows:

The following effects must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land.
- Trade competition and the effects of trade competition.
- Any persons that have provided their written approval and as such adverse effects on these parties have been disregarded.

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, as any change of conditions is a discretionary activity, there is not considered to be any relevant permitted baseline.

Character and Amenity

The existing use of the contractor's yard is not proposed to increase from what is already permitted under the existing consent. The existing sheds on the site are used for the storage of vehicles and the associated materials of the business. The addition of the shed to be used for storage will generally continue to read as part of the industrial use of the site and the existing environment.

The location of the new shed to the south to the property is still in close proximity to the existing sheds and yard on the site, and will integrate into that existing environment. The proposal will have no more than minor effects on the existing character and amenity of the surrounding area when compared with the existing environment.

Noise

The proposed shed is to be utilised for storage on site and will not alter the noise profile of the site, as it will not contain any machinery or equipment that operate. Overall, it is considered that the potential adverse effects from noise will be no more than minor when compared to the existing environment.

Traffic

The proposed shed that will be utilised for storage will not increase the associated vehicle movements from the site that are already permitted under LU 2019/447. The proposal will not have more than minor adverse traffic-related effects on the existing environment.

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 proposal.
- 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 owners of 20 Forth Street have provided a written approval. Due to this, the adverse effects on persons at this property are not assessed.



Figure 2: Subject site outlined in blue, and purple dot indicates APA provided. Red dots indicate neighbouring properties.

It is necessary to have regard to those persons considered in the original decision. The original application was issued without public notification.

1 – 15 Clyde Street

These properties are located to the north of the subject site and each contain a residential dwelling. The proposed shed is located in the southwest corner of the site. The existing contractor yard is located in between the proposed shed location and these buildings. The existing built form of the site provides a visual barrier to the new proposed shed, while the vacant rural land on the site provides a physical separation. Due to this, any adverse effects on the owners and occupiers of these properties are less than minor.

9 – 19 Kana Street

These properties are located to the east of the subject site and each contain a residential dwelling. The proposed shed is located in the southwest corner of the site, with the closest distance of 160m from the adjoining boundaries of these properties. Vacant rural land is located in between these properties and the site. Due to the separation distance, any adverse effects on the owners and occupiers of these properties are less than minor.

23-29 Forth Street

These vacant properties are located west of the subject site and are separated by Forth Street. The proposed shed is being built in the southwest corner of the site. The existing presence of multiple sheds is well-established at the subject site. Due to the separation distance, the proposed 330m² shed will result in less than minor adverse effects on the owner of these properties.

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 3 – Land Use Activities – A Framework of the District Plan.

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.*
- (12) *Require any adverse effects of land use activities upon infrastructure to be rectified.*

The addition of the shed on the site, which is currently utilised as a contractor's yard, will not adversely affect the characteristics and the amenity values of the industrial area given the existing height of the structures on site.

7. PART 2 OF THE RMA

The purpose of the RMA is to promote the sustainable management of natural and physical resources. The proposal for additional storage will enable the efficient and effective continuation of the contractor's yard on the site under the land use consent and promote the sustainable management of natural and physical resources.

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

8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B of the RMA, consent is **granted** for the application by KJ Adams Trust to change Condition 1 of LU 2019/447 to construct an additional 330m³ shed at 32 Forth Street as follows (deleted text struck-through, added text **bold** and underlined):

1. The use and development must be in general accordance with the application for Resource Consent as originally determined on the 7 of August 2019, and the plans and descriptions which form part of that application, **and**
 - a. **The application and site plan submitted to Council on the 19 August 2024.** ~~except for the site plan which is now replaced by that endorsed and attached to this consent.~~

Advice Notes:

All other conditions of consent LU 2019/447, as varied by LU 2019/447/2 shall continue to apply.

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

Decision made by



Bridget Sim
Planner

Penny Weng
Delegate

Appendix A: Updated Consent Conditions of LU 2019/447

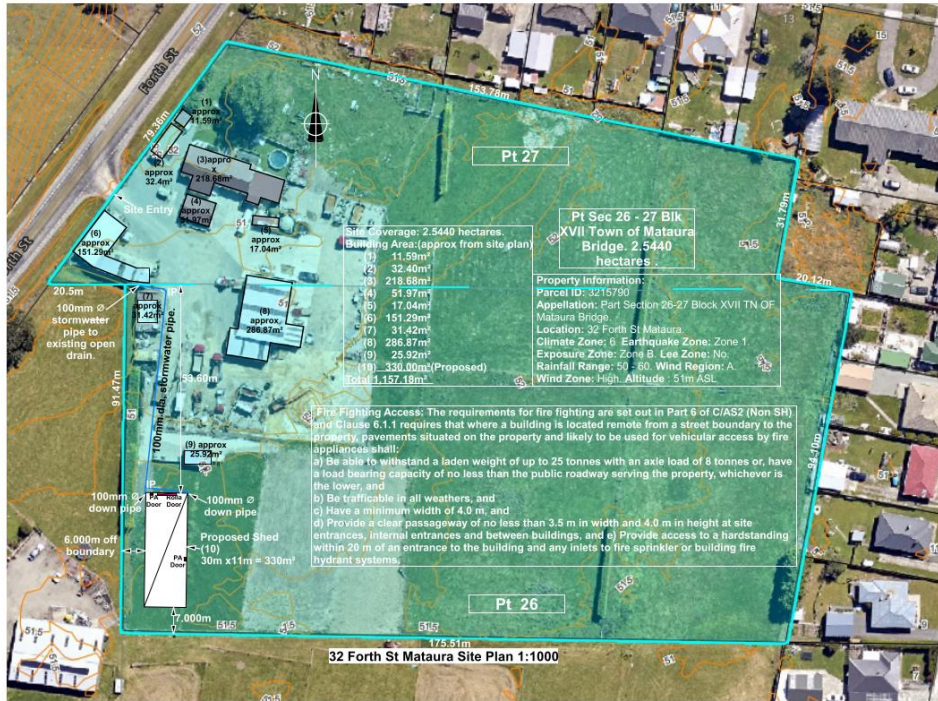
Appendix B: Approved Amendment Plan

APPENDIX A – Updated Consent Conditions of LU 2019/447

GENERAL CONDITIONS OF CONSENT:

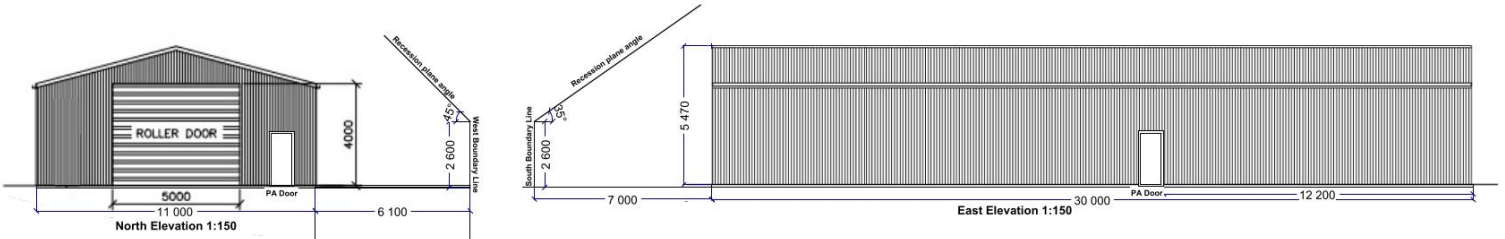
1. The use and development must be in general accordance with the application for Resource Consent as originally determined on the 7 of August 2019, and the plans and descriptions which form part of that application and
 - a. The application and site plan submitted to Council on the 19 August 2024.
2. Signage on the site must not be illuminated.
3. All and any outdoor lighting must be so installed and operated as to retain illumination to the site only and to not spill over into neighbouring properties or cause any glare visible from the road.
4. Control measures must be put in place to prevent muddy water flowing, or earth slipping, onto neighbouring properties or the legal road. Sediment, earth or debris must not collect on land beyond the site or enter the Council's storm water system.
5. Dust created by activity on the site, transport or other activities must be controlled to minimize or prevent nuisance and hazard.
6. Any earth, rock, vegetation or material which falls on the road, footpath, berm or neighbouring property during work or transport must be cleaned up immediately. The material must not be swept or washed into channels or storm water drains, or dumped on the side of the road.

APPENDIX B – Approved Amendment Plan



Please be aware of requirements to appropriately manage environmental effects associated with this build.
 Site management means having adequate controls in place on site, to ensure that compliance is achieved and harmful by-products of construction activities do not damage the environment or cause nuisance to neighbours.
 Site Manager/Owner to make all contractors aware of any site conditions as imposed by District Council or Local Bodies.

HEALTH & SAFETY:
 Make the works safe and provide and maintain a safe working environment, to the requirements of the Health and Safety at Work Act 2015. Ensure that all those working on or visiting the site are aware of the rules governing site safety, are properly supervised and are not unnecessarily exposed to hazards and risks.
 Induct all site workers, administrators and visitors on personal hygiene requirements and use of PPE (personal protective equipment).
Site Safety:
 Site access to be restricted by temporary fencing and gates to limit unauthorized entry where necessary.
 If work site not completely enclosed, site specific hazards to be barriered or fenced off, when workers are not on site.
 Excavation or heights with over 1.0m drop to have barrier to prevent falling.
 Appropriate scaffolding to be in place for work over 1.0m high.
 All personal and visitors on site to be inducted on Health and Safety.



Adams Shed - 32 Forth St Matura Scale @ A3 Paper Size

Plan altered 20 June 2024 November 2023