

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

Application reference	LU25007
Applicant	Gavin Hickey
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to build a shed without existing residential activity on site that will breach yard setbacks and daylight admission.
Location	80A Ruia Street, Gore
Legal Description	Lot 2 DP 604846 held in record of title 1185774
Activity Status	Discretionary
Decision Date	18 March 2025

### 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 18 March 2025 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104B of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Penny Weng, under delegated authority pursuant to Section 34A of the RMA.

## 1. THE PROPOSAL

Consent is sought to build a shed at 80A Ruia Street that will be 80m<sup>2</sup> in area and setback 500mm from the southern, south-western and western boundaries. The shed will be 8m by 10m with a height of 4.2m at the apex. The shed will be clad with corrugated metal wall cladding. The site, located in the Residential A Zone, is currently vacant and the shed will be the only structure that is built on the site. The owner intends to construct a residential dwelling on the site in the near future to accompany this building.

Access to the site will be via the right of way from Ruia Street.

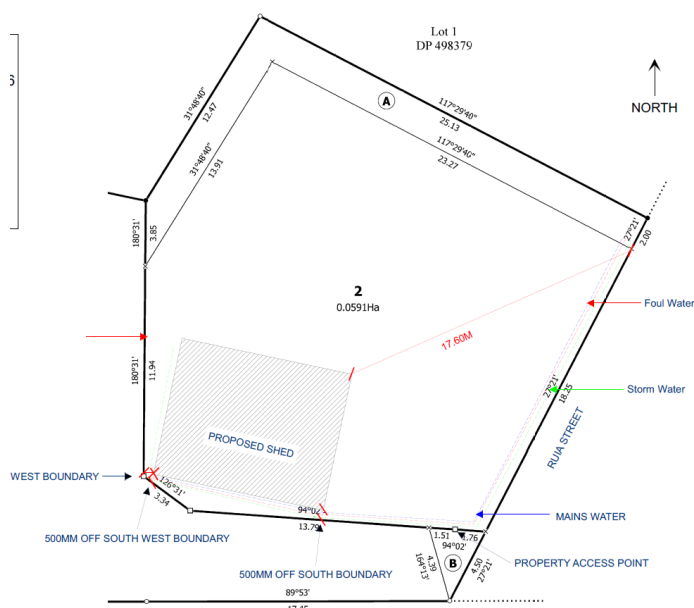


Figure 1: Proposed shed location at 80A Ruia Street

## 2. SITE DESCRIPTION

The site is legally described as Lot 2 DP 604846, also known as 80A Ruia Street. The site is located in the Residential A Zone. The site is flat and currently is vacant, the shed that appears on the planning maps in Figure 2 has since been removed.

The site is located at the end of a dead-end street and is situated adjacent to the Rural Zone along the southern and western boundaries. The immediate surrounding environment is predominately residential in character and use, apart from the south and west of the subject site (Rural Zone) and parts of the western side of Ruia Street, which contains rural lifestyle blocks with residential dwellings (Residential A Zone).

The Council's mapping system does not identify that the site is prone to an inundation hazard. The liquefaction risk across the site is 'negligible'. The site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site.

The site is listed as having a significant tree under the Operative District Plan (T54) and a notable tree under the Proposed District Plan (TREE - 45) along the eastern boundary of the site adjacent to Ruia

Street. This tree, being a *Juglan Regia* (walnut tree), has been removed (LU24043), and is no longer present.



*Figure 2: Subject site outlined in blue and the surrounding environment.*

### 3. ACTIVITY STATUS

#### 3.1 Operative Gore District Plan

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

- A **restricted discretionary** activity pursuant to Rule 4.7.1(2), as the proposal breaches standard 4.7.1(b) in regard to the proposed shed extending beyond the southern recession plane by a maximum height of 1.2m and the western recession plane by a maximum height of 80mm. Council's discretion is restricted to these matters.
- A **restricted discretionary** activity pursuant to Rule 4.7A.1(4), as the proposal breaches standard 4.7A.1(3)(a) in regard to the proposed shed being located 500mm from the southern, south-western and western boundaries. Council's discretion is restricted to these matters.
- A **discretionary** activity pursuant to Rule 4.2.4, as the proposal does not comply with Rule 4.2.1(2). A shed will be constructed on the site without an existing residential activity on site.

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

Based on the applicant's review of Council records, the piece of land to which this application relates is not a HAIL site, and therefore the NES-CS does not apply.

### 3.3 Activity Status Summary

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

## 4. NOTIFICATION ASSESSMENT

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

### 4.1 Public notification – Section 95A

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

#### Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

#### Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are no rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
  - a controlled activity; or
  - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

#### Step 3 – Public notification is required in certain circumstances

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

The following effects must be disregarded:

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

#### *Written Approvals*

The following written approvals have been provided:

Person (owner/occupier)	Address (location in respect of subject site)
Gregory and Andrea Caughey	82 Ruia Street (to the west and south)
Andrew and Maria Lawrence	80 Ruia Street (to the north-west and north)

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, it is permitted to build an accessory building in the Residential A Zone that meets the bulk and location standards, provided that it is associated with a residential activity on site. The shed is proposed to be setback 500mm from the south, south-west and west boundaries, breaching the required minimum setback of 1m. Due to the positioning of the shed, the daylight recession planes are also breached on the south and west boundaries.

#### *Character and Amenity*

The proposed shed is of a shape and size that is anticipated in the Residential A Zone. Given the shape of the allotment, not being a perfect square or rectangular shape but instead with multiple corners, the location of the shed has been placed to maximise the space available for a future residential dwelling on the site. The shed will be located off Ruia Street, towards the back of the site. As a result, the yard setback breaches and daylight recession plane breaches will not be easily visible beyond the adjacent properties or from Ruia Street.

Therefore, the effects of the position of the shed will be less than minor upon the character and amenity of the wider environment.

#### *Visual dominance*

Although the shed will be the only structure on the site, it is of a size that is associated with a normal residential shed/garage/activity. It will be located among existing residential activity in the immediate area that also contains a garage or shed associated with a residential dwelling. The colours and materials of the proposed building are that similar to those found in the existing environment. The

adjacent property, 82 Ruia Street has a dwelling that is corrugated and has the appearance of a garage from the road, although it is a residential unit. The visual effects of constructing an accessory building that is proposed to be used with a residential activity in the future (rather than an existing residential activity) are no more than minor upon the intent of the Residential A Zone.

#### *Yard Setback and Daylight Recession Planes*

Adverse effects in relation to the yard setback and daylight recession plane non-compliances have been discussed further in the subsequent s95 – Effects on persons assessment, as these are considered to be boundary activities.

#### *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 activity.
- 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.

### *Neighbouring Properties*

Neighbouring properties include the owners and occupiers of the properties that share a common boundary with the subject site and those that are located opposite the site as shown in Figure 3 below:



*Figure 3: Subject site outlined in blue with neighbouring properties identified by dots.*

A written approval has been provided by the owners and occupiers of 80 Ruia Street and 82 Ruia Street (purple dots). The adverse effects of the application including the yard setback and daylight recession plane breaches do not need to be assessed upon these persons.

A shed being located in a residential area is not out of character for the Residential A Zone. Although it will be on site without an existing residential dwelling, the applicant has advised that a residential dwelling will be built in the near future, thus meaning that the shed being the only structure on the site will be temporary in duration. However, if for any reason that a future residential dwelling is not built on the site, the garage is of design that does not detract from the adjacent environment.

#### *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

### Operative District Plan

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

- Objective (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.*
- Objective (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.*
- Policy (1) Establish zones that reflect the characteristics and amenity values of the area.*
- Policy (2) Control the adverse effects of land use activities on the environment.*

The yard setback requirements for the Residential A zone provide separation between residential activities and maintain residential amenity and characteristics. While the proposed building will breach the side yards, this is located adjacent to a neighbouring driveway and on-site manoeuvring area. The proposed design resulting in recession plane breaches is mitigated by the physical separation of these areas. The front yard setback of 4.5m is achieved, ensuring that the proposal meets the general character to the surrounding residential area with respect to the streetscape.

The Applicant has advised that residential activity will be built on the site in the near future, ensuring that the shed will not be the sole structure on the site. However, an accessory building without a residential dwelling present is not out of character and still maintains the characteristics and amenity values of the surrounding environment.

Overall, the application is considered to be consistent with the objectives and policies of Chapter 3 of the District Plan.

### Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 26 October 2023. The further submission period closed on 12 April 2024 and hearings are currently underway. 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. PART 2 OF THE RMA

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

The proposal is consistent with Part 2 of the RMA. It will provide for the appropriate land use and development of a physical resource in a way that will provide for the applicant's economic and social wellbeing. The site does not contain any matters of national importance under s 6 and particular regard

has been given to s 7 in terms of maintaining and enhancing the quality of the existing residential environment. 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.

## 8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104B of the RMA, consent is **granted** to build a shed at 80A Ruia Street without an existing residential activity that breaches bulk and location standards, subject to the following condition imposed pursuant to Section 108 of the RMA:

### Consent Condition

1. The proposal shall be undertaken in general accordance with the following plans and application as submitted on XX:
  - *Sheet 1 Site Plan, Gavin Hickey 80A Ruia Street Gore, prepared by Ajax Building, dated 19/02/2025*
  - *Sheet 2 Floor Plan, Gavin Hickey 80A Ruia Street Gore, prepared by Ajax Building, dated 19/02/2025*
  - *Sheet 4 Elevations, Gavin Hickey 80A Ruia Street Gore, prepared by Ajax Building, dated 19/02/2025*

These plans are attached as Appendix A.

### 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. 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 constructing any buildings.

### 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](mailto:planning@goredc.govt.nz).

Prepared by

Decision made by



Bridget Sim  
**Planner**

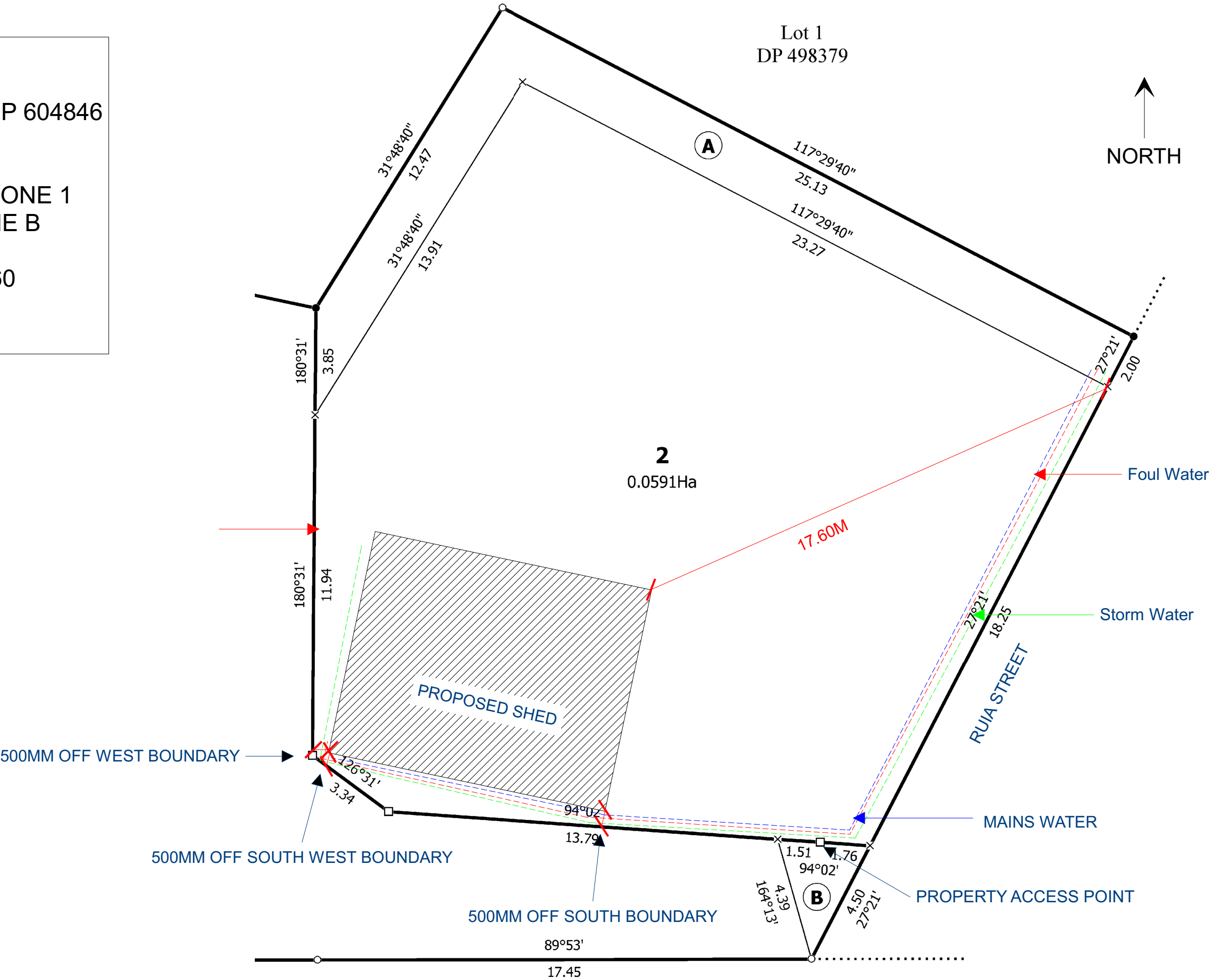


Penny Weng  
**Delegate**

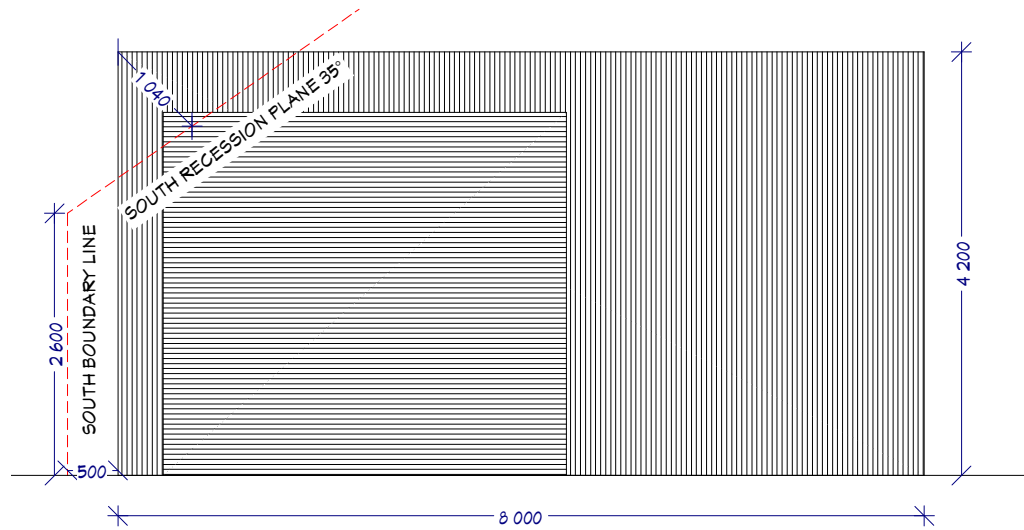
## **Appendix A: Approved Plans**

## **APPENDIX A – APPROVED PLANS**

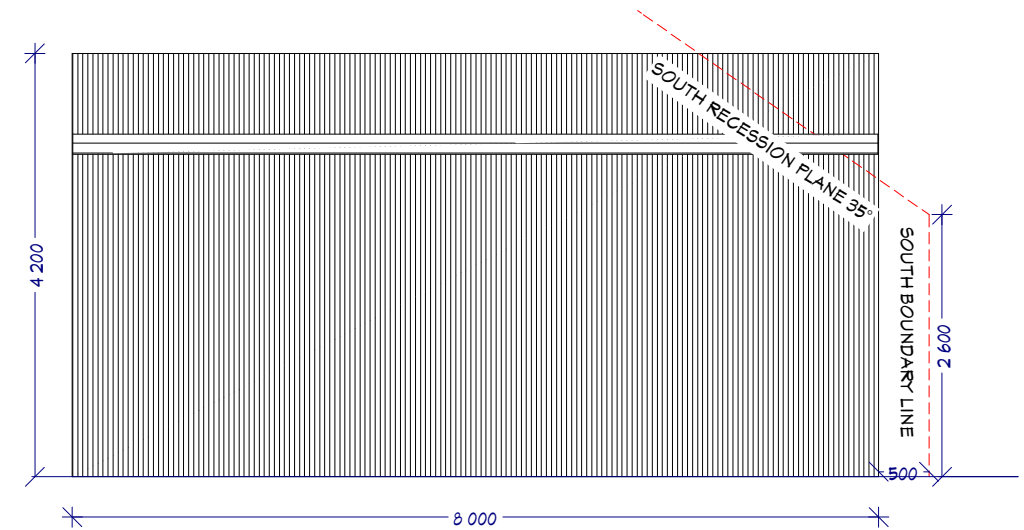
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**PARCEL ID:** 8651771  
**APPELLATION:** LOT 2 DP 604846  
**LOCATION:** GORE  
**CLIMATE ZONE:** 6  
**EARTHQUAKE ZONE:** ZONE 1  
**EXPOSURE ZONE:** ZONE B  
**LEE ZONE:** NO  
**RAINFALL RANGE:** 50-60  
**WIND REGION:** A  
**WIND ZONE:** HIGH



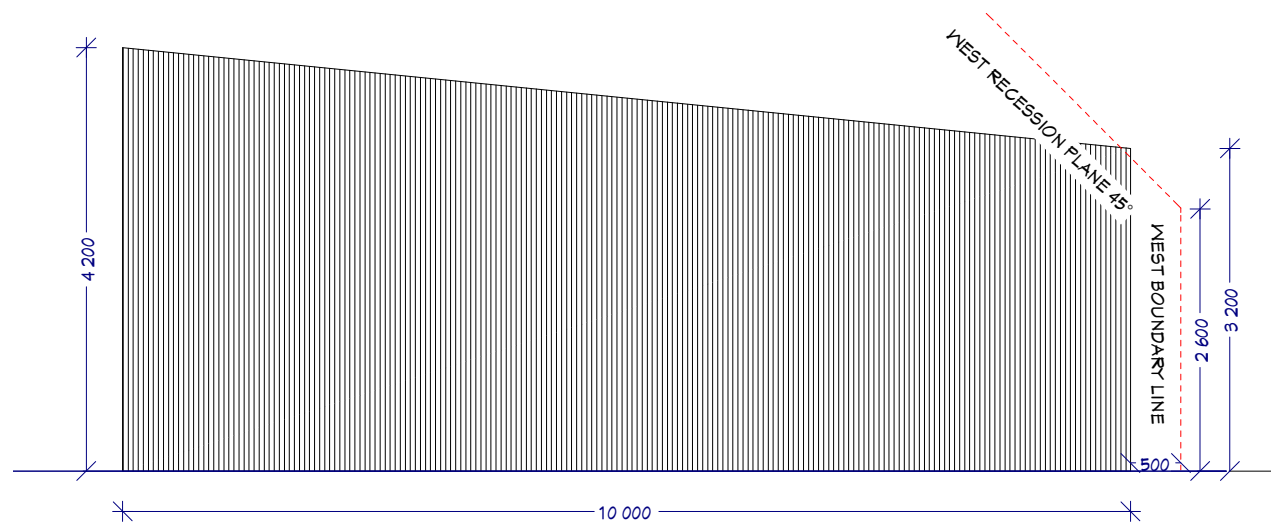




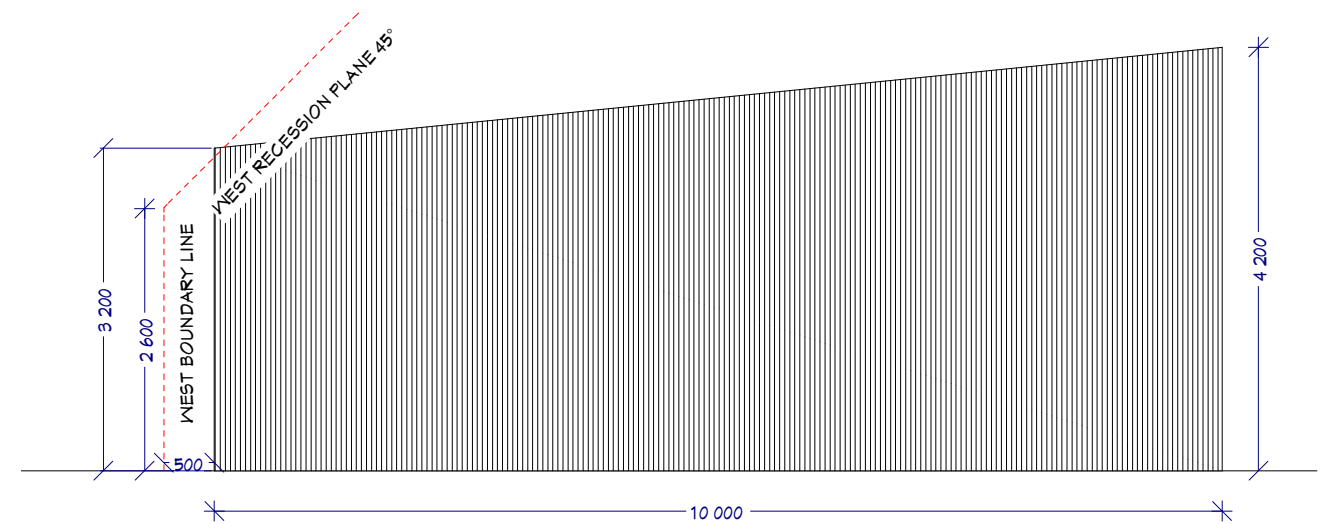
EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION