

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	LU 25008
<b>Applicant</b>	Hawkeswood Civil Limited
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) for the temporary storage of commercial mining equipment on a rural site.
<b>Location</b>	1028 and 968 Waikaka Road, Gore
<b>Legal Description</b>	Lot 2-3 Deposited Plan 5492, Lot 1 Deposited Plan 10945, and Lot 9 Deposited Plan 13018 and Part 5 Deposited Plan 7758.
<b>Activity Status</b>	Discretionary
<b>Decision Date</b>	16 May 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 Werner Murray, on 16 May 2025 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104C of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 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 continue the temporary storage of commercial mining machinery and equipment. The equipment consists of a cross-pit conveyer, a transfer wagon, parts of a bucket wheel excavator and three associated containers. The machinery is not operational.

Resource consent LU 2015/149 was issued on 21 May 2015 and enabled the storage of the machinery for a period of 10 years, following the cessation of the gold mining activity on site. This consent will expire in 2025.

The applicant intends to remove the equipment from the current site over the next 2-year period. The duration of consent sought is therefore two years.

Minor earthworks will be required for the removal of the machinery.

The applicant has volunteered conditions in relation to traffic management and rehabilitation of the site.

Council is currently processing a separate application for a land use activity for gold mining on the site. No decisions or recommendations on the application have been made at this time. Multiple consents can exist on the same site, even if there is potential for them to conflict. Given the timeframe of two years the likelihood of a conflict of activities is lessened.

A request for further information was sent to the applicant request their rationale for the situation. The applicant has responded as follows:

*“Waikaka Gold Mines Limited have applied for a resource consent over the land. The applicants propose to enter into an agreement that if required and given 3 months’ notice, the mining equipment will be removed off the site. If any rehabilitation of the land is required, this will likely be a simple remediation of any disturbance caused by the machinery involved in the removal of the equipment. If any remediation is required, the land will be resown into pasture.”*

A bond is in place with Council for the rehabilitation of the site. This existing bond agreement is set to expire 18 June 2025. The applicant has proposed to arrange for a new bond agreement between the applicant and Gore District Council to provide for the requested consent duration. This is anticipated to be largely the same as the existing bond agreement with the exception of a different applicant and new expiry date.

## 2. SITE DESCRIPTION and SITE HISTORY

The application relates to the land at 1028 and 968 Waikaka Road, Gore.

- 1028 Waikaka Road is legally described as Part 5 Deposited Plan 7758 as described in Recor of Title SL10C/718 containing 47.7895 hectares more or less.
- 968 Waikaka Road is legally described as Lot 2-3 Deposited Plan 5492, Lot 1 Deposited Plan 10945 and Lot 9 Deposited Plan 13018 as described in Recor of Title SL10C/715 containing 33.4014 hectares more or less.

**LU 114/99:** In 1999 L & M Mining Limited applied for a resource consent LU 114/99 to undertake earthworks during mining operation. The resource consent was publicly notified and granted approval

on 14 April 2000 for a term of 15 years. The disturbed land has since been restored back to pastoral farm land, wetland etc as required by various consent conditions. However, some mining equipment still remains on site.

**LU 2015/149:** LU 114/99 expired on 14 April 2025. The Applicant sought consent for the storage of the existing equipment and earth works associated with its removal for a period of 10 years. Consent was approved on 18 June 2015.

### 3. ACTIVITY STATUS

#### 3.1 Gore District Plan

##### Operative District Plan

The site is zoned Rural in the 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 4.8.1(2) as the proposal breaches standard 4.8.1(1)(b) in regard to height. No structure shall exceed 12m in the rural zone. The mining equipment reaches heights of 24m. Council's discretion is restricted to the adverse environmental effects of this matter.
- A **discretionary** activity resource consent pursuant to Rule 4.2.4 as the storage of commercial activity is not provided for as a permitted, controlled, discretionary, non-complying or prohibited activity by any other rule in this Plan.

##### Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 27 November 2023. The further submission period closed on 12 April 2024 and hearings are currently underway.

The site is zoned Rural in the Proposed District Plan. There are no rules with immediate legal effect that are relevant to this proposal.

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

The NES was addressed under the previous applications, and the following condition is volunteered by the Applicant:

4. *At least 1 month prior to any earthworks being undertaken in relation to the removal of mining equipment or rehabilitation of the land, the consent hold shall provide detailed information to the Council's Senior Planner, on how either;*
  - a. *the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply to this proposal, or,*
  - b. *the works will meet the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.*

*If either of the above cannot be achieved then a resource consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health is required to be obtained before earthworks can take place on site.*

The applicant seeks consent for the storage of the mining equipment on site. Whilst earthworks may be required to remove the machinery, the extent of the earthwork is not currently known and therefore, whether consent is required pursuant to the NES-CS cannot be determined.

As such, the above condition is proposed to be amended as follows:

- X. *At least 1 month prior to any earthworks being undertaken in relation to the removal of mining equipment or rehabilitation of the land, the consent holder shall provide the following details to Council's Planning Department:*
- a. *The total volume of earthworks; and*
  - b. *Confirmation that the site is not HAIL and therefore the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply, or,*
  - c. *If the site is HAIL, confirmation that the works are permitted under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.*

### 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*

The following written approvals have been provided:

Person (owner/occupier)	Address (location in respect of subject site)
Lois Gardyne (Director) Pullar Siding Farm Limited	1028 and 968 Waikaka Road
Duncan Gardyne (Director) Gardyne Agriculture Limited	1028 and 968 Waikaka Road

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, structures up to 12m are permitted within the rural zone.

### *Existing Environment*

Consent currently exists to store the mining equipment on site. The equipment has been there since the operation of the mining activity in the early 2000s. Given its historical association with the area, the machinery can be seen to contribute a modest cultural or interpretive value to the rural character.

The proposal seeks to extend the storage of the mining machinery on site for a further two years. The visual impacts will not increase beyond that which is existing. The continued use of land for the activity will not adversely affect the quality of the environment or rural amenity to a more than minor degree given its connection to the site history.

The removal of the machinery will generate temporary effects relating to traffic and potentially noise. Traffic management will be utilised during removal and permits will be required to manage overweight/over dimensioned loads. Given the rural nature of the site and surrounds, and the temporary element, adverse effects on the wider environment are considered to be less than minor.

### *Conclusion: Effects On The Environment*

Based on 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.

Affected party approval has been provided from the owners of the land on which the machinery is situated.

In relation to adverse effects on other persons, the machinery is static, non-operational, and does not generate noise, emissions, or traffic. It poses no significant safety risk to the public, given the private nature of the site.

In terms of visual effects, the views experienced by neighbouring properties will remain unchanged.

Overall, the proposal for a temporary two-year storage of mining machinery is considered to result in less than minor effects. The presence of the machinery is passive and low-impact. Short-term effects during removal can be effectively managed through conditions.

*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

##### 3.3 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.



- (7) Ensure that the effects of earthworks and other land disturbance are avoided, remedied or mitigated.

### **3.4 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.
- (10) Recognise that earthworks and disturbance of the ground is a necessary part of undertaking many activities.
- (11) Ensure that the effect of earthworks and other land disturbance are avoided, remedied or mitigated

The applicant's assessment of the objectives and policies contained in section 5.3 of the AEE is adopted for the purposes of this report.

### **Proposed District Plan**

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 27 November 2023. The further submission period closed on 12 April 2024 and hearings are currently underway.

GRUZ-P9 provides for small scale industrial activity where it can be demonstrated that the activity has a genuine link with the rural land, the activity is compatible with the character, amenity values, qualities and purpose of the General Rural Zone and various other factors relating to site design, transport, light spill and vegetation. Whilst the activity is unique, it can be classified as industrial due to the storage element. There is a genuine link to the land as the area has historically been mined. The activity is temporary and as discussed above is not incompatible with the character, amenity values, qualities and purpose of the General Rural Zone.

Overall, the proposal is consistent with the objectives and policies of the rural zone.

## **7. PART 2 OF THE RMA**

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

There are no matters of national importance under section 6 of the RMA that will be affected by the proposal. The proposal is also consistent with the requirements of Section 7 of the RMA. Regarding Section 8, the proposed activity is not inconsistent with the principals 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 104C of the RMA, consent is **granted** for the temporary storage of mining machinery on site for a period of two years subject to the following conditions imposed pursuant to Section 108 of the RMA:

### **Consent Conditions**

1. The activity shall be undertaken in general accordance with the application LU 25008 and further information received on 8 May 2025.

2. This consent shall have a duration of 2 years from the date of this decision.
3. No more than 3 months after all equipment is removed from site or from the date this consent expires, whichever is first, the site shall be rehabilitated back to rural farm land. A rehabilitation plan shall be submitted to the Council's Planning Department for approval prior to the rehabilitation works being undertaken.
4. At least 1 month prior to the removal of the mining equipment, the consent holder shall provide a traffic management plan to Council, for Council's review and certification detailing the management of oversized vehicles and/or necessary road closures.
5. At least 1 month prior to any earthworks being undertaken in relation to the removal of mining equipment or rehabilitation of the land, the consent holder shall provide the following details to Council's Planning Department:
  - a. The total volume of earthworks; and
  - b. Confirmation that the site is not HAIL and therefore the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply, or,
  - c. If the site is HAIL, confirmation that the works are permitted under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
5. The consent holder shall no later than 18 June 2025 either;
  - a. provide a bond to the Gore District Council, to the value of \$45,000.00 to cover removal of equipment and rehabilitation of the land, or,
  - b. vary the existing bond that is in place under land use consent LU 2015/149 to reflect and reference this land use consent (LU 25008)

### **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.

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



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Decision made by



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