

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

CANCELLATION OF CONSENT NOTICE CONDITIONS UNDER s221

Resource Management Act 1991

Application reference	SC 23029
Applicant	Zachary Andrews
Proposal	<p>Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a three-lot subdivision of the site over two stages</p> <p>Application under Section 221 of the RMA to cancel Consent Notice 8915158.4 for SC 12/2007 in full, as it relates to proposed Lot 2</p>
Location	676 Reaby Road, Upper Charlton
Legal Description	Lot 1 Deposited Plan 516318 held in record of title 804617
Activity Status	Discretionary
Decision Date	18 July 2023

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 18 July 2023 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 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, on 18 July 2023 under delegated authority pursuant to Section 34A of the RMA.
3. Pursuant to Section 104 and Section 104B of the RMA, consent is **GRANTED** to the cancellation of the Consent Notice 8915158.4 for SC 12/2007 in full, as it relates to proposed Lot 2. The decision to grant consent was considered by Werner Murray, on 18 July 2023, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL - Subdivision

The Applicant proposes to undertake a three-lot subdivision of the site over two separate stages as follows:

Lot 1	2.3250 hectares. Proposed Lot 1 comprises an existing dwelling and will be used for rural lifestyle purposes. Proposed Lot 1 will be created in Stage 1.
Lot 2	2.1458 hectares. Proposed Lot 2 comprises an existing shed and will be used for rural lifestyle purposes. Proposed Lot 2 will be created in Stage 2.
Lot 3	2.5742 hectares. Proposed Lot 3 is vacant and will be used for rural lifestyle purposes. Proposed Lot 3 will be created in Stage 2.

The Applicant does not propose to establish a new residential unit on proposed Lots 2 and 3 at this stage, though it is noted that one residential unit is permitted per rural zoned site.

Lots 1 and 3 will be provided with an existing vehicle crossing to Reaby Road. This entrance will need to be upgraded. Right of way easement 'A' is proposed over Lot 3 to enable use of the entrance off Reaby Road by Lot 1. Lot 2 is provided with an existing entrance and access leg off Hewlett Road. This entrance will need to be upgraded.

In terms of the services for Lot 1, the existing dwelling is provided with on-site rainwater tanks for potable water and firefighting supply; wastewater is managed via a septic tank and disposal field and stormwater runoff discharges to the ground. Both wastewater and stormwater disposal will be fully contained within the proposed boundaries of Lot 1. The existing dwelling has an existing electricity connection and an existing wireless telecommunications connection.

In terms of the services for Lot 2 and Lot 3, potable water is proposed to be supplied via onsite rainwater collection. Wastewater disposal will be provided via on-site septic tanks and disposal fields. Stormwater runoff will be disposed of to the ground and is expected to be fully contained within the proposed lot boundaries. The detailed design of these services will be assessed at the time a building consent is submitted to the Council for future development on the individual lots.

In terms of an electricity supply, the Applicant has provided confirmation from PowerNet (via an email dated 8 May 2023) that an electricity supply can be provided to Lots 2 and 3. It is proposed that the connections be made at the time of development on Lots 2 and 3.

In terms of telecommunication services, Lots 2 and 3 will either be provided with a fixed line telecommunications connection from Reaby Road, or will use wireless rural broadband services. The Applicant has provided confirmation that Spark and Vodafone (One NZ) are able to provide the lots with wireless rural broadband.

Any additional easements that are required can be included as part of the s223 certification.

A consent duration is sought for 10 years to enable the two stages of the subdivision to be implemented.

The proposed scheme plan supplied with the application is included as Appendix A.

Interests on the record of title

Consent Notice 8915158.4 is registered on the record of title, 804617, which applies to Lot 2 DP 436807. Lot 2 DP 436807 was the legal description for the subject site before it was subdivided under SC 2016/231 to create the adjoining site at 646A Reaby Road (Lot 2 DP 502104) and further subdivided under SC 2017/284 to create the adjoining site at 660 Reaby Road (Lot 2 DP 516318).

The conditions of this consent notice require that the access to the site from Hewlett Road shall be utilised for pastoral farming purposes only. Additionally, prior to the occupation of any dwelling on the site, a complying vehicle access shall be provided.

The Applicant proposes to cancel this consent notice, so that it does not drop down on to the new record of title for Lot 2 (refer to section 2 of this report below).

2. THE PROPOSAL – Cancellation of Consent Notice

Section 221 of the Resource Management Act 1991 provides for a consent notice to be cancelled as follows:

- (3) *At any time after the deposit of the survey plan,—*
 - (a) *the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice:*
 - (b) *the territorial authority may review any condition specified in a consent notice and vary or cancel the condition.*
- (3A) *Sections 88 to 121 and 127(4) to 132 apply, with all necessary modifications, in relation to an application made or review conducted under subsection (3).*

Consent is sought under section 221 of the RMA to cancel conditions 2(ii) and 2(iii) in Consent Notice 8915158.4 for SC 12/2007. These are the only conditions on the consent notice.

The conditions on the Consent Notice state:

(2)(ii) The access from Lot 2 onto Hewlett Road shall be utilised only for pastoral farming purposes. No access shall be provided to any dwelling erected on the land nor other land uses that result in an increase in vehicle movements directly onto and from the road above what occurs as part of pastoral farming activities.

(2)(iii) That prior to the occupation of any dwelling on Lot 2, the consent holder shall provide a vehicle access to the land to comply with Diagram 5.6 of the District Plan to the satisfaction of the Council's Roading Manager.

The access to Lot 2 from Hewlett Road will be upgraded to the R09-1 diagram standard in accordance with the Gore District Council Subdivision and Land Development Bylaw (being the most up-to-date standard), as part of this application. Therefore, the conditions of the consent notice will become redundant. This consent notice is proposed to be cancelled in full, so that it does not drop down onto the new record of title for Lot 2.

3. SITE DESCRIPTION

The site is located in the Rural zone, as shown on Planning Map DST 16 of the District Plan.

The 7.0450 hectare site has frontage to Reaby Road to the south and Hewlett Road to the west, as shown in Figure 1. The site has a gently rolling topography. It has an existing vehicle access onto Reaby Road and a secondary vehicle access from Hewlett Road via an access leg.

The site contains an existing dwelling located in approximately the south-west portion of the site and an accessory shed near the end of the access leg.



Figure 1: Subject site in red (source: Intramaps)

The existing dwelling on the site is currently serviced for domestic purposes in terms of on-site water supply, on-site wastewater and stormwater disposal and a wireless telecommunications connection. The existing overhead lines along the southern side of Reaby Road provide an electricity connection to the site.

The Council's Roading Asset Manager, Murray Hasler, notes that Reaby Road is a chip-sealed rural collector road. The section of Reaby Road adjacent to the site falls relatively steeply from Hewlett Road towards the west, then rises more gently in the same direction. The existing accessway which is approximately 10m east of the trough of the vertical curve is also on the apex of a gentle horizontal curve.

The site also has an existing access onto Hewlett Road. Hewlett Road intersects with Reaby Road near the end of a series of horizontal curves on Reaby Road. The section of Reaby Road east of Hewlett Road has a 55kph speed curve advisory sign, which is likely to reduce the operating speed of vehicles approaching the site from the east. Hewlett Road is a partly formed but unmaintained and unsealed

public, local access road, which is straight but rises gently from Reaby Road. A 100kph speed restriction applies to both sections of road.

The Gore District Council's mapping system does not identify the site as being subject to any risk of inundation. It identifies the liquefaction risk across the site as 'negligible'. The majority of the site comprises Class 3 soils.

There are no known natural features and landscapes or historic heritage features on the site.

The site is not identified in Environment Southland's Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site.

The site is located approximately 6.5km to the north-west of the centre of the Gore Township. The immediate surrounding area is rural in character and use and includes farming lots in a variety of sizes.

4. ACTIVITY STATUS

4.1 Gore District Plan

The site is zoned Rural in the Gore District Plan and the proposed subdivision requires resource consent under the District Plan for the following reason:

- A **restricted discretionary** activity resource consent pursuant to Rule 8.10[4](b) to undertake a three-lot subdivision of the site over two stages, where each lot will exceed 2 hectares in area.

The Council's discretion is restricted to the following:

- (i) *suitability of the allotments for activities permitted within the zone in which they are located.*
- (ii) *suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land;*
- (iii) *ability to provide services (water, sewage, storm water, power and telecommunications);*
- (iv) *impacts on the council and other infrastructure services;*
- (v) *future use of the land and the need to consider any associated resource consents;*
- (vi) *within residential and rural areas lot size, dimensions and potential for future subdivision of the land;*
- (vii) *within residential and rural areas the desirability of providing building platforms; and provision of easements*
- (ix) *impacts on any heritage or archaeological values*
- (x) *impacts on natural features and landscapes, ecological or cultural values*
- (xi) *impacts water quality, including groundwater*
- (xii) *provision of all transport modes, including the movement of pedestrians and cyclists*

Overall, the proposal requires consent as a **restricted discretionary** activity.

4.2 Resource Management Act

The proposal also requires resource consent under the RMA for the following reason:

- A **discretionary** activity consent pursuant to 87B, in accordance with Section 221 of the RMA, which specifies that a cancellation of a consent notice shall be processed in accordance with Sections 88 to 121 and 127(4) to 132. It is proposed to cancel the conditions in Consent Notice 8915158.4 in full, so that the consent notice does not drop down onto the new record of title for Lot 2.

4.3 National Environmental Standard for Assessing Contaminants in Soil to Protect Human Health 2011 (“NES-CS”)

Based on the Applicant’s review of local and regional Council records, the piece of land to which this application relates is not identified as an actual or potentially contaminated site.

5. 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.

5.1 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 Approval/s

No written approvals have been given.

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 subdivision requires a resource consent, there is no permitted baseline.

Suitability of the allotments and future land use

The subdivision layout is consistent with what the District Plan enables in the Rural zone. Proposed Lots 1 to 3 at 2.3250ha, 2.1458ha and 2.5742ha respectively, each meet the 2 hectare minimum area specified in the Gore District Plan.

Proposed Lot 1 will continue to be used for rural lifestyle purposes. Proposed Lots 2 and 3 will have the opportunity for a new dwelling to be developed. Due to the size of the lots meeting the 2 hectare minimum area, any future development is expected to comply with the Performance Standards in the District Plan for the Rural zone including the yards, daylight admission and height standards. There are no other resource consents that are needed to be considered with this subdivision.

The application and scheme plan does not show a fixed building platform location on proposed Lots 2 and 3. However, given the size of the lots and no indication of any hazards, it is considered unnecessary to require a fixed area for a building platform in order to reduce effects.

An advice note is recommended which advises the consent holder that any future development on proposed Lots 1 to 3 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 (Bylaw) and the Gore District Plan and will be assessed at the building consent stage.

Overall, the proposed lots are considered to be consistent with the anticipated type of subdivision within the Rural zone. It is considered that the size, shape and configuration of the proposed

allotments are appropriate to be used for rural lifestyle purposes and that any adverse effects on the wider environment will be less than minor.

Suitability of land for subdivision – Natural Hazards

The Gore District Council's mapping system identifies the site as free of any flood hazards. Therefore, the subdivision will not exacerbate the risk of inundation upon the wider environment.

The Gore District Council's mapping system identifies the liquefaction risk on the site as 'negligible'. Therefore, it is considered that the subdivision will not exacerbate the risk of liquefaction upon the wider environment.

The subject site is not identified as a HAIL site and therefore any risk of the spread of contamination to the wider environment is less than minor.

Overall, any adverse effects, with respect to natural hazards, on the wider environment will be less than minor.

Ability to provide services

Proposed Lot 1 is currently serviced for domestic purposes in terms of on-site water supply and on-site wastewater and stormwater disposal.

In terms of the services for proposed Lots 2 and 3, potable water is proposed to be supplied via onsite rainwater collection. Wastewater disposal will be via an on-site septic tank and a drainage field. Stormwater runoff will be disposed of to the ground and is expected to be fully contained within the proposed boundaries. The detailed design of these services will be assessed at the time a building consent is submitted to the Council for future development on the lots. The details of the above requirements will be included as consent notice conditions, which have been accepted by the Applicant.

In terms of telecommunication services, proposed Lot 1 has an existing wireless connection, while proposed Lots 2 and 3 will be provided with a new wireless or fixed line connection. The Applicant has provided confirmation that Spark and Vodafone (One NZ) are able to provide the lots with wireless rural broadband. This is acceptable given that wireless services are becoming the norm and a preferential option for rural sites.

In terms of an electricity supply, proposed Lot 1 has an existing electricity connection to the overhead lines adjacent to Reaby Road. PowerNet have confirmed in their email dated 8 May 2023 that an electricity supply can be provided to proposed Lots 2 and 3.

Overall, proposed Lots 1 to 3 can be feasibly serviced. Any adverse effects on the wider environment with respect to servicing 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. It can be considered that the impacts of the proposed subdivision will be nil with respect to these features and values.

The subject site is located outside of any mapped significant natural features and landscapes or any areas shown as having identified ecological or cultural values. The subdivision will alter the landscape

of the site with the introduction of residential development in the future on proposed Lots 2 and 3. However, given that the District Plan enables rural living on sites greater than 2 hectares, the effects are anticipated by the Plan.

The subject site is not in close proximity to any water bodies. As stormwater and wastewater disposal will be assessed at the time of building consent, it considered any impacts on water quality, including groundwater would be less than minor.

Effects on traffic

The Council's Roading Asset Manager, Murray Hasler, has reviewed the application. A summary of his assessment is provided below and is attached as Appendix B to this report. The access standards contained in the Gore District Council Subdivision and Land Development Bylaw apply to this situation.

The Applicant proposes using the existing access from Reaby Road to provide access to proposed Lots 1 and 3 via a right of way easement over proposed Lot 3. The existing access from Reaby Road meets the sight distance requirements but has not been constructed in accordance with the Bylaw. Therefore, Mr Hasler recommends that this access be upgraded in accordance with diagram R09-1 contained in the Bylaw and this has been accepted by the Applicant as forming part of the proposal.

The Applicant proposes using the existing access from Hewlett Road to provide access to proposed Lot 2. A consent notice imposed during the previous subdivision decision SC 12/2007 currently applies to this access and it is this consent notice that the Applicant seeks to cancel.

The existing access from Hewlett Road meets the sight distance requirements. Mr Hasler recommends that this access is upgraded, in accordance with diagram R09-1 contained in the Bylaw and this has been accepted by the Applicant as forming part of the proposal.

The assessment of Mr Hasler has been adopted. It is considered that safe accesses will be provided to serve each lot in the subdivision and any effects on traffic will be less than minor.

It is noted that provided that the access from Hewlett Road serves proposed Lot 2 and a single future residential unit only, Hewlett Road would not require an upgrade at this stage. Mr Hasler notes that this proposal will increase the number of potential residential lots being serviced by Hewlett Road to the maximum, which can be serviced by a private right of way, in accordance with the Bylaw. Any future development, proposing access, from Hewlett Road to an additional subdivision or a sixth dwelling will trigger the requirement for an upgrade of Hewlett Road to the appropriate public road standard under the Bylaw. It is considered that this may be a 'Long cul-de-sac' public road. This may require the construction of the pavement and drainage in accordance with the Bylaw. However, it is noted that any such an application in the future would be assessed under the Bylaw at that time, and has not been assessed as part of this application. Once constructed satisfactorily, Hewlett Road would be added to the Council's maintained public road network.

Cancellation of Consent Notice

The conditions of Consent Notice 8915158.4 become redundant, as it is proposed to upgrade the existing access from Hewlett Road to meet the requirements of diagram R09-1 contained in the Bylaw. Diagram R09-1 is the minimum requirement for a rural lot that can accommodate the traffic movements associated with one residential unit. Mr Hasler confirms that the cancellation of the condition notice conditions is therefore acceptable.

Any adverse effects associated with the use of the access from Hewlett Road to serve a future rural residential use on Lot 2 is considered to be no more than minor on the environment. The proposed cancellation of the conditions in Consent Notice 8915158.4 is therefore acceptable.

Conclusion: Effects On The Environment

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed subdivision 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.

5.2 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 section 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

The adjacent persons who are assessed below are all of the owners of the properties that share a common boundary with the subject site and those that are located opposite the site.



Figure 2: The adjacent properties shown by yellow circles (source: Intramaps)

The adjoining properties include the two sites to the north (Section 927 Hokonui SD and 646 Reaby Road - Lot 2 DP 14308); the two sites to the east (646A Reaby Road - Lot 2 DP 502104) and 646A Reaby Road - Lot 2 DP 516318) and the site to the west (694 Reaby Road - Lot 1 DP 436807). These properties are mostly used for rural lifestyle activities, except for Section 927 Hokonui SD, which is part of the Croydon Bush Scenic Reserve and is covered entirely in bush.

The two adjacent properties opposite the site to the south (Lot 1 DP 1675 and Part Section 490 Hokonui SD) are used for rural activities.

The subdivision meets the standard for minimum lot size for the Rural zone. The District Plan has therefore anticipated the adverse effects associated with future development of this density on such lots and deemed it appropriate. Proposed Lots 2 and 3 are of a size and shape that can accommodate a future residential unit, while proposed Lot 1 contains an existing residential unit. It is considered that the effects associated with such future development on any adjacent persons will be less than minor. Future developments are required to adhere to the District Plan bulk and location standards, specifically boundary rules which ensure effects on neighbouring properties are acceptable.

It is considered that the proposed lots will maintain the character of the area and the existing amenity values will be unaltered. Any adverse effects upon the rural character and the amenity experienced by persons residing on or working on the adjoining and adjacent properties will be less than minor.

The proposed subdivision would maintain the safe and efficient function of the Council's roading network. The existing accesses from Reaby Road and Hewlett Road will be upgraded. Given the rural nature of the surrounding area, any effects related to traffic generation are considered to be less than minor on any person.

Proposed Lot 1 is currently serviced for domestic purposes in terms of on-site water supply, on-site wastewater and stormwater disposal, an electricity connection and a wireless telecommunications connection. Services for proposed Lots 2 and 3 can feasibly be accommodated on the site at the time of development, with rainwater catchment and on-site tanks for potable water. Stormwater and wastewater will be discharged to ground within the boundaries of the individual lots. An electricity connection can be provided to proposed Lots 2 and 3. A wireless or fixed line telecommunications connection can also be provided to proposed Lots 2 and 3. The effects of servicing will therefore be less than minor for any adjacent person.

Natural hazards will not be exacerbated by the proposal and there will be no discernible effects in this regard upon any adjacent person.

Overall, it is considered that the proposed subdivision will not create lots or future uses that will be out of character for the area or detract from the existing amenity values. Therefore, the adverse effects are considered to be less than minor and there are no persons that would be adversely affected by the proposed subdivision.

Cancellation of Consent Notice

It is proposed to upgrade the existing access on Hewlett Road to meet the requirements of diagram R09-1 contained in the Bylaw. Any adverse effects associated with the use of the access from Hewlett Road to serve a future rural residential use on Lot 2 is considered to be no more than minor on any adjacent persons. The proposed cancellation of the conditions in Consent Notice 8915158.4 is therefore acceptable.

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.

6. 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.

7. SECTION 104 ASSESSMENT

7.1 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.*

7.2 Effects on the Environment

The actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s220 of the RMA as required to avoid, remedy or mitigate adverse effects.

7.3 Relevant Provisions

District Plan

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

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 layout of the allotments are practical and appropriate for the Rural zone. Proposed Lot 1 contains an existing residential unit with existing services. Proposed Lots 2 and 3 can accommodate a future rural residential activity and can be serviced appropriately at the time of development. All proposed lots can be provided with suitable access via an upgraded vehicle crossing to Reaby Road, while proposed Lot 2 will also be provided with an upgraded access from Hewlett Road. It is considered that the subdivision is appropriate and will not lead to adverse effects on the amenity and character of the surrounding area.

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

Southland Regional Policy Statement 2017

The proposal is consistent with the relevant objectives and policies in the Southland Regional Policy Statement, specifically the provisions contained in Chapter 5 (Rural land/soils). Objective RURAL.1 seeks to achieve sustainable use of Southland's rural land resource, in respect of a number of matters including (b) subdivision, use and development activities; (d) the use of soil resources; and (f) on-site wastewater systems. Policy RURAL.2 seeks to manage subdivision and land development activities in rural areas of Southland in a way that maintains or enhances rural amenity values and character.

The RPS generally recognises that subdivision and land development activities in rural areas need to be managed in a manner that takes into account the potential for reverse sensitivity issues that could lead to constraints on the ability to access significant rural land resource and undertake reasonable productive uses of land.

The proposed subdivision will allow two additional lots to be created, which will enable the opportunity for those lots to be developed with a residential unit. The site comprises Class 3 soils. These soils can continue to provide for a small-scale rural activity following the subdivision. Proposed Lots 2 and 3 can be provided with an on-site wastewater system at the time of development. Overall, it is considered that the proposal is aligned with the relevant objectives and policies in the RPS.

National Policy Statement for Highly Productive Land (NPS-HPL)

The NPS-HPL came into force on 17 October 2022. The objective of the NPS-HPL is that highly productive land is protected for use in land-based primary production, both now and for future generations. As the proposal is for a restricted discretionary activity subdivision, the matters of discretion do not provide scope for the consideration of highly productive land. No further assessment of the NPS-HPL is required.

8. 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. 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).

In this case, the site is not subject to any known natural hazard risk. Proposed Lots 1 to 3 will be served by a legal and physical access to Reaby Road, while proposed Lot 2 will also be served by a secondary legal and physical access to Hewlett Road.

Overall, the proposal meets the requirements of s106 of the RMA.

9. PART 2 OF THE RMA

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

Section 5 – Purpose

The proposed subdivision takes into account Section 5 of the RMA as the proposed lots will ensure the natural and physical resources of the rural land is protected for future generations. 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 future land use is appropriate within this rural 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 and therefore, this recommendation is not inconsistent with the principles of the Treaty of Waitangi.

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

10. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, **subdivision** consent is **granted** to undertake a three-lot subdivision of the site over two stages subject to the following conditions imposed pursuant to Section 220 of the RMA:

Consent Conditions

General

1. The subdivision must be undertaken generally in accordance with the application made to the Council on 10 May 2023 and the further information received on 25 May and 9 June 2023 and the following plan:
 - ‘Proposed Subdivision of Lot 1 DP 516318 [RT 804617]’, Job 15956, Drawing No. 01, Rev A, prepared by Clark Fortune McDonald, dated 14/03/2023.

This plan is attached as Appendix A.

2. Prior to the Council signing the Survey Plan for each stage of the subdivision 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 as necessary.
3. The consent holder must meet the costs for the preparation, review and registration of any easement instrument(s) on the relevant Records of Title.

Duration of Consent

4. This consent shall expire in 10 years from the date it was granted.

Vehicle Access

5. Prior to certification of Stage 2 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the vehicle access on Reaby Road to serve Lots 1 and 3 in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
6. Prior to certification of Stage 2 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the vehicle access on Hewlett Road to serve Lot 2 in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.

Consent Notices

7. Prior to the certification of Stage 2 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991; a consent notice, in accordance with Section 221 of the Resource Management Act, shall be issued for Lots 2 and 3 to record that:
 - a) At the time of lodging a building consent for a dwelling, a rainwater collection system must be verified as being potable; this shall include provision for UV filters or UV treatment or alternative treatment provision and shall be submitted with the building consent application(s).
 - b) At the time of lodging a building consent for a dwelling, the lot is to have a specifically researched, designed and verified system for wastewater and stormwater disposal.
 - c) At the time of lodging a building consent for a dwelling, each application is to include an approved firefighting water supply and site services design by Fire and Emergency New Zealand (FENZ) to comply with SNZ PAS 4509 and the Subdivision and Land Development Bylaw 2019.
 - d) At the time of this subdivision, a fixed-line telecommunication connection was not provided to the lot, and either a fixed-line telecommunication connection or an alternative service (wireless broadband) needs to be installed at a cost to the owner at the time that the connection is applied for.
 - e) At the time of subdivision, an electricity connection was not provided to the lot and should an electricity connection be required at the time of development, this needs to be installed at a cost to the owner at the time that the connection is applied for.

The consent notice shall be registered against the Records of Title for Lots 2 and 3.

Advice Notes

1. Any future development on Lots 1 to 3 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 and the Gore District Plan and will be assessed at the building consent stage.

2. It will be necessary to upgrade Hewlett Road to the minimum standard required for a maintained public road ('long cul-de-sac' public road) at the time of any further subdivision, or the establishment of a sixth dwelling that is accessed off Hewlett Road.
3. Any work carried out on the legal roadway requires the prior approval of the Council and the consent holder must consult with the Council's Roading 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 ten 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



Penny Weng
Consultant Planner

Decision made by



Werner Murray
Delegate

11. DECISION ON CANCELLATION OF CONSENT NOTICE

Consent is granted for the application to cancel the conditions in Consent Notice 8915158.4 for SC 12/2007 in full, in accordance with Section 221 of the RMA, following the completion of subdivision SC 23029 to create Lots 1 to 3.

1. The wording of the condition in consent notice 8915158.4 is to be amended, as follows (deleted text strikethrough):

~~(2)(ii) The access from Lot 2 onto Hewlett Road shall be utilised only for pastoral farming purposes. No access shall be provided to any dwelling erected on the land nor other land uses that result in an increase in vehicle movements directly onto and from the road above what occurs as part of pastoral farming activities.~~

~~(2)(iii) That prior to the occupation of any dwelling on Lot 2, the consent holder shall provide a vehicle access to the land to comply to comply with Diagram 5.6 of the District Plan to the satisfaction of the Council's Roading Manager.~~

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



Penny Weng
Consultant Planner

Decision made by



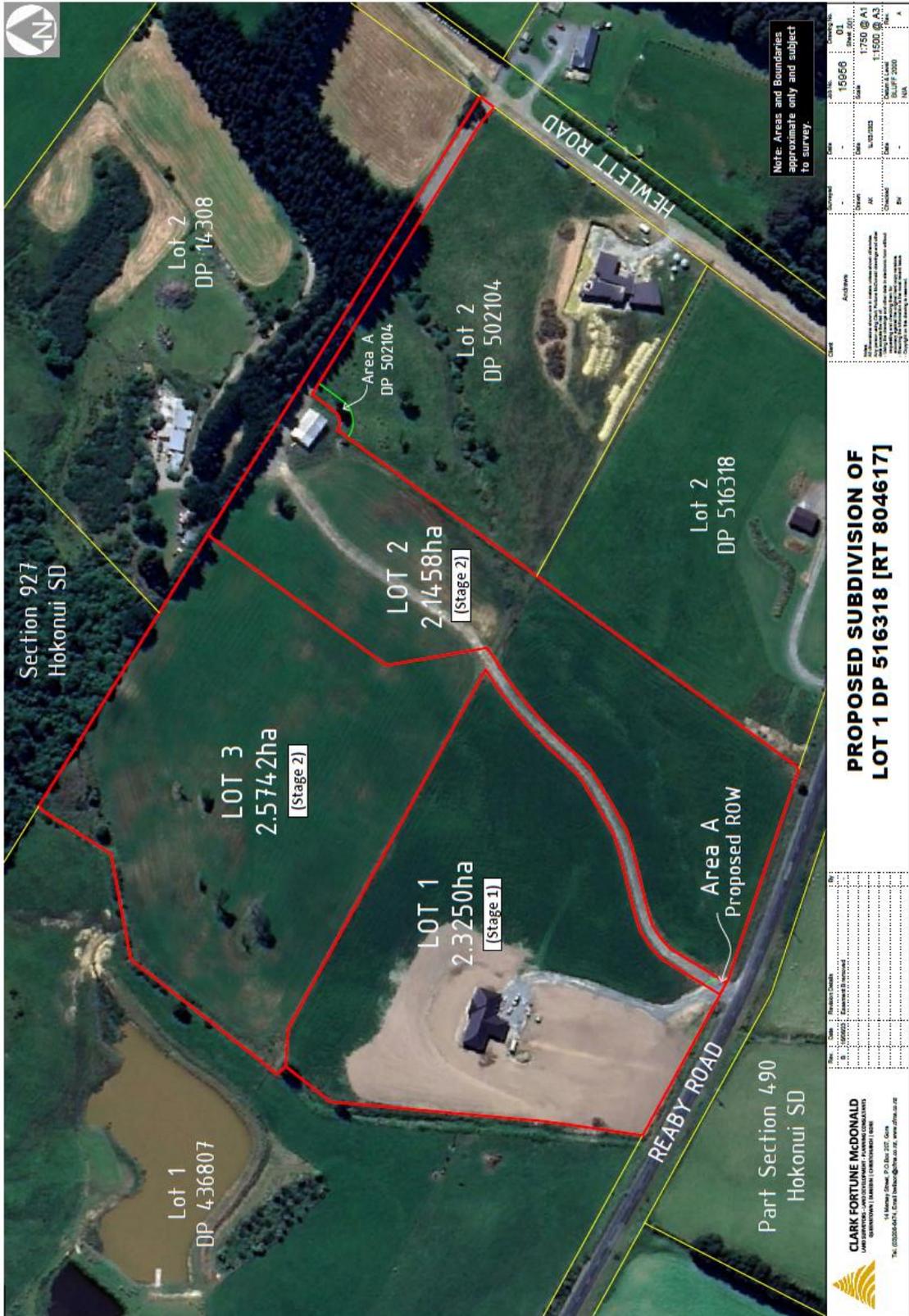
Werner Murray
Delegate

Appendices

Appendix A - Approved Plan

Appendix B – Roading Comments, dated 16.07.2023

APPENDIX A – APPROVED PLAN



**PROPOSED SUBDIVISION OF
LOT 1 DP 516318 [RT 804617]**

Lot	Area	Stage	DP No.	RT No.
Lot 1	2.3250ha	Stage 1	DP 516318	RT 804617
Lot 2	2.1458ha	Stage 2	DP 516318	RT 804617
Lot 3	2.5742ha	Stage 2	DP 516318	RT 804617

Lot	Area	Stage	DP No.	RT No.
Lot 1	2.3250ha	Stage 1	DP 516318	RT 804617
Lot 2	2.1458ha	Stage 2	DP 516318	RT 804617
Lot 3	2.5742ha	Stage 2	DP 516318	RT 804617

CLARK FORTUNE McDONALD
 LAND SURVEYORS & CONSULTANTS
 100/100 REEBY ROAD, UPPER CHARLTON
 DISTRICT OF CANTONMENT, CHRISTCHURCH 8046
 TEL: 03 325 0641 FAX: 03 325 0642
 www.clarkfortune.co.nz

Schedule of Proposed Easements

Surveyor Reference: 15956

Proposed Easements			
Purpose	Shown	Servient Tenement (Burdened Land)	Dominant Tenement (Benefited Land)
Right of Way	A	Lot 3 Hereon	Lot 1 Hereon

APPENDIX B – ROADING COMMENTS, DATED 16.07.2023

Roading Department

Murray Hasler, Roading Assets Manager, at the Council, reviewed the application and provided the comment, noting;

Current Situation

The proposed subdivision is adjacent to Reaby Road which is a chip sealed rural collector road. The section of Reaby Road adjacent to the proposed subdivision falls relatively steeply from Hewlett Road towards the west then rises more gently in the same direction. The existing accessway which is approximately 10m east of the trough of the vertical curve is also on the apex of a gentle horizontal curve. The property also has an existing access onto Hewlett Road. Hewlett Road intersects with Reaby Road near the end of a series of horizontal curves on Reaby Road. The section of Reaby Road east of Hewlett Road has a 55kph speed curve advisory sign which is likely to reduce the operating speed of vehicles approaching the site from the east. Hewlett Road is a partly formed but unmaintained unsealed public local access road which is straight but rises gently from Reaby Road. A 100kph speed restriction applies to both sections of road.

Application Assessment

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

The amended application proposes using the existing access from Reaby Road to provide access to proposed Lot's 1 and 3. The existing access from Reaby Road has not been constructed in accordance with the Bylaw. Therefore, this access shall be upgraded prior to certification. This access shall be upgraded in accordance with Diagram R09-1. The access meets the visibility requirements. The applicant proposes providing access for proposed Lots 2 via the existing access to Hewlett Road. This access meets the sight distance requirements. A consent notice imposed during previous subdivision SC 12/2007 currently applies to this access. The consent notice does not permit access to a dwelling or access for purposes other than pastoral farming. It is recommended that the consent notice be cancelled. It is also recommended that access be upgraded in accordance with Diagram R09-1. This proposal will increase the number of potential residential lots being serviced by Hewlett Road to the maximum which can be serviced by a private right of way. Any future development, proposing access, from Hewlett Road to an additional subdivision or a sixth dwelling will trigger the requirement for the applicant to upgrade Hewlett Road to the appropriate public road standard. At a minimum this will be 'Long cul-de-sac' public road. This will require construction of the pavement and drainage in accordance with the Bylaw. Once constructed satisfactorily Hewlett Road will be added to the Council's maintained public road network.

Mr Hasler recommended that the application be approved from the transportation perspective subject to the abovementioned roading conditions.