

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC 23063
<b>Applicant</b>	Bridgette Catherine and Donald George Morrison
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to subdivide an existing title into seven rural allotments.
<b>Location</b>	221 Morrison Road, Willowbank
<b>Legal Description</b>	Lot 3 DP 578755 and Lot 4 DP 367960
<b>Activity Status</b>	Restricted Discretionary
<b>Decision Date</b>	2 October 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 2 October 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, under delegated authority pursuant to Section 34A of the RMA.

## 1. THE PROPOSAL



**Figure 1: Proposed Subdivision**

The applicant proposes to subdivide Lot 3 DP 578755 and Lot 4 DP 367960 creating the following proposed allotments:

- Lot 1: 2.00 hectares. Proposed Lot 1 comprises vacant land and will be used for rural lifestyle purposes. It is proposed to construct a new vehicle crossing to Chittock Road. Access is proposed to be constructed at the time of building consent.
- Lot 2: 2.00 hectares. Proposed Lot 2 comprises vacant land and will be used for rural lifestyle purposes. It is provided with an existing vehicle crossing to Chittock Road.
- Lot 3: 2.00 hectares. Proposed Lot 3 comprises vacant land and will be used for rural lifestyle purposes. It has a frontage to Pinnacle Road and Morrison Road. It is provided with an existing vehicle crossing to Morrison Road.
- Lot 4: 2.00 hectares. Proposed Lot 4 comprises vacant land and will be used for rural lifestyle purposes. It is provided with an existing vehicle crossing to Pinnacle Road.
- Lot 5: 2.00 hectares. Proposed Lot 5 comprises vacant land and will be used for rural lifestyle purposes. It is proposed to construct a new vehicle crossing to Pinnacle Road. Access is proposed to be constructed at the time of building consent.
- Lot 6: 44.28 hectares. Proposed Lot 6 is the balance rural lot that will be used for rural purposes. It is intended to retain the existing production farming land use. Lot 6 has a frontage to Morrison Road with two associated existing access points along its northern boundary.
- Lot 7: 31.72 hectares. Proposed Lot 7 is the balance rural lot that will be used for rural purposes. It is intended to retain the existing production farming land use. Lot 7 will continue to be accessed from the east over the adjacent land, which is held in the same ownership. Additionally, Lot 7 has two existing access points along the southern boundary onto Morrison Road.

A ten year timeframe to give effect to this consent has been requested, which is double the RMA's standard five year timeframe for giving effect to consents. Due to the changing policy environment in the district, and as no strong reasons were provided as to why a longer timeframe is justified for this application, the request for a ten year timeframe is not supported.

The stages can be completed in any practical order. The two stages proposed:

- Stage 1: Proposed Lots 1 and 2 with balance Lot 7 and Lot 4 DP 367960 to be amalgamated.
- Stage 2: Proposed Lots 3, 4 and 5 with balance Lot 6 and Lot 7 Stage 1 (Lot 3 DP 578755) to be amalgamated.

Proposed Lots 1 to 5 are anticipated to have a rural-lifestyle land use in the future, while proposed Lot 6 and Lot 7 is intended to remain as a productive farmland. The applicant does not propose to establish a new dwelling on the proposed lots at this stage, though it is noted that one residential unit is permitted per rural zoned site.

The applicant proposes the following amalgamation conditions:

- Stage 1: The applicant proposes that Lot 7 and Lot 4 DP 367960 will be held together with the balance allotment, Lot 4 DP 367960 that one record of title be issued to include both parcels having a combined area of 76ha.
- Stage 2: Proposed Lot 6 and Lot 7 hereon will be held together and one record of title issue to include both parcels.

*LINZ reference: 1875581*

No easements are proposed at this stage. Any easements that are required can be included as part of the s223 certification.

## **1.2 Cancellation of existing s241(2) Amalgamation Condition**

The underlying Record of Title 1072363 is subject to Section 241(2) of the Resource Management Act 1991 relating to an Amalgamation Condition endorsed on DP 578755. This application proposes that the condition is cancelled in respect of proposed Lots 1 to 5 while promoting a replacement condition for balance Lot 6 and 7.

- (2) *When a condition of the kind referred to in subsection (1), or a similar condition under the corresponding provision of any previous enactment, has been complied with, —*
  - (a) *The separate parcels of land included in the record of title in accordance with the condition shall not be capable of being disposed of individually, or of again being held under separate records of title, except with the approval of the territorial authority; and*
  - (b) *On the issue of the record of title, the Registrar-General of Land shall enter on the record of title a memorandum that the land is subject to this section.*
- (3) *The territorial authority may at any time, whether before or after the survey plan has been deposited in the Land Registry Office or the Deeds Register Office, cancel, in whole or part, any condition described in subsection (2).*
- (4) *When a territorial authority cancels a condition in whole or in part, then—*

- (a) *Where the survey plan has not been approved by the Chief Surveyor, a memorandum of the cancellation shall be endorsed on the survey plan:*
- (b) *Where the survey plan has been approved by the Chief Surveyor or deposited, the territorial authority must forward to the Registrar-General of Land a certificate signed by the chief executive or other authorized officer of the territorial authority to the effect that the condition has been cancelled in whole or in part, and the Registrar-General of Land must note the records accordingly.*

### 1.3 Access

Lot 1 will be provided with a proposed new vehicle crossing on to Chittock Road and Lot 2 will utilise the existing rural access on to Chittock Road, which will need to be constructed to meet the requirements of Diagram R09-1 'Private Rural Access' in the Bylaw (subject to conditions which have been included in the recommendation section).

- The applicant has provided a possible access location for Lot 1 (Mobile Rds/0.355) and the access location for the existing rural Lot 2 access to Chittock Road (Mobile Rds RD/0.247), which demonstrate compliance with the sight distance minimum requirement in Table 3.3A in the Bylaw.

Lot 3 will be provided with a proposed new vehicle crossing onto Pinnacle Road, which will be constructed to meet the requirements of Diagram R09-1.

- The applicant has indicated a possible access location for Lot 3 (Mobile Rds/5.872), which complies with the sight distance minimum requirement in Table 3.3A in the Bylaw to be addressed. The existing access to Lot 3 off Morrison Road is to be closed prior to section 224c certification.

Access to Lot 4 is via an existing rural access onto Pinnacle Road, which will be constructed to meet the requirements of Diagram R09-1 in the Bylaw.

- The existing access location for Lot 4 complies with the sight distance minimum requirement in Table 3.3A in the Bylaw.

Lot 5 will be provided with a proposed new vehicle crossing on to Pinnacle Road, which will need to be constructed to meet the requirement of Diagram R09-1 in the Bylaw.

- The applicant has provided possible access locations for Lot 5 (Mobile Rds/5.601), which complies with the sight distance minimum requirement in Table 3.3A in the Bylaw.

Proposed Lots 6 and 7 will the existing rural vehicle crossings to Morrison Road. Lot 7 will also continue to be accessed from the east over the adjacent land, which is held in the same ownership.

The proposal has been reviewed by Gore District Councils Roading Asset Manager – Murray Hasler, which has confirmed the proposed accessways for Lots 1 to 5 can be accommodated and the existing access to Lots 6 and 7 is acceptable as the land use on proposed Lot 6 and 7 remain unchanged.

Plans illustrating the proposed access locations are included in Appendix A of this application.

## 1.4 Servicing

In terms of the services for Lots 1 to 5, potable water is proposed to be supplied via onsite roof and rainwater collection. Lots 6 and 7 are currently provided with stock water via adjacent land parcels owned by the applicant.

Wastewater disposal is proposed to be disposed of to ground. Stormwater runoff will be disposed of to the ground and is expected to be fully contained within the proposed boundaries. There are existing telecommunications (wireless) services available within the area, with wireless coverage for Yrless, Farmside and Spark networks. 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.

The applicant has provided confirmation from PowerNet that Network lines can be extended to supply Lots 1 to 7 (reference emails from Fraser Neil – Operations (Distribution) Project Manager, dated 28 August 2023).

## 1.5 Consent Notice

There is a Consent Notice – 12569368.4 that applies to Lot 3 DP 578755 the following condition listed under SC2022/161 are to be complied with on an ongoing basis. According to the Consent Notice Instrument, registered against the Certificate of Title for the subject site, there is one matter listed in the Consent Notice that is applicable to this application. The condition has been assessed in the table below.

12569368.4 Consent Notice	
<p>1. <i>At the time of lodging a building consent for any development; a geotechnical assessment prepared by a suitably qualified professional, shall be prepared and submitted as part of the application to confirm the suitability of the location and ground conditions for development and avoid exacerbating any hazards.</i></p>	<ul style="list-style-type: none"><li>• This condition can be complied with at the building consent stage. The applicant is not proposing to establish a building or develop proposed Lot 7. It is intended to retain the existing production farming land use.</li><li>• The consent notice will carry down onto Lot 7.</li></ul>

## 2. SITE DESCRIPTION



**Figure 2: Aerial image of subject site (source: Grip Map)**

The application site is made up of two rural land parcels legally described as Lot 3 DP 578755 and Lot 4 DP 367960, which are currently held in a single Record of Title 1072363, with an area of 85.98ha (Refer to Figure 2).

The site is located in the Rural Zone under the Operative District Plan and General Rural Zone under the Proposed District Plan. The site is located approximately 7km to the northeast of the centre of the Gore Township. The immediate surrounding area is predominately rural in character and use. It includes a mix of large and medium sized farming lots, as well as 2ha lots that have been subdivided intended for rural residential activity.

The proposed subdivision is located on the east side of Chittock Road and Pinnacle Road, as well as being on the north and south side of Morrison Road. The three roads are unsealed local access roads. The section of Chittock Road is straight. Pinnacle Road has a single gentle horizontal curve along the property frontage. Morrison Road has four relatively gentle horizontal curves. A 100km/h speed restriction applies to the three roads. Operating speeds of traffic are restricted by a combination of the gravel surface, horizontal curves and the proximity to the three-way intersection between the roads. It is estimated to be approximately 60km/h.

The sections of these road are classified as 'Formed' on Gore District Councils Road hierarchy and is a Rural/Rural Lifestyle Local Road as per Table 3.1 road design standards (under Subdivision and Land Development Bylaw 2019).

Gore District Councils IntraMap and ArcGIS map (refer to Figure 3) identifies Lot 3 DP 578755 as containing an Old Mine Point (M152). It is confirmed that the mining record is a spatial error. Historic records and current landowners have confirmed that no underground mines exist or existed on the property. This indicates that the location of Old Mine Point M152, as shown on the Councils mapping system could be incorrect at the time of this application but does not completely preclude that an old mine once existed on the wider subject title (which comprises two allotments), or in the vicinity of the site.

The existing land use is utilised for farming purposes, predominantly used for pastoral grazing of livestock with some associated winter cropping activity. The site has an undulating topography that declines towards the eastern portion of the site for Lot 4 DP 367960 and northeast portion of Lot 3 DP 367960. The purpose of this subdivision is to create five future rural lifestyle allotments. As well as retaining the two proposed balance lots (proposed Lot 6 and 7) for the existing farming land use. Lot 3 DP 367960 has frontage adjoining the west boundary being Chittock Road, and Morrison Road adjoining the southern boundary. Lot 4 DP 367960 has frontage adjoining the west boundary being Pinnacle Road and Morrison Road adjoining the northern boundary. All roads are identified as formed within Gore District Councils Road Hierarchy.

There are no Council services identified within the road corridor. There are existing power and telecommunications (overhead reticulated) lines that extend across Chittock and Pinnacle Road. Lots 6 and 7 are both currently provided electricity over adjacent eastern land parcels.

The Council mapping system which sources information from Environment Southland does not identify the site as subject to any risk of flooding and identifies the site's liquefaction risk as negligible. The site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site. The subject site has been identified as containing LUC 3 High Class Soils. There are no known natural features and landscapes or historic heritage features on the site. There are no high voltage powerlines located in the immediate vicinity of the allotments.

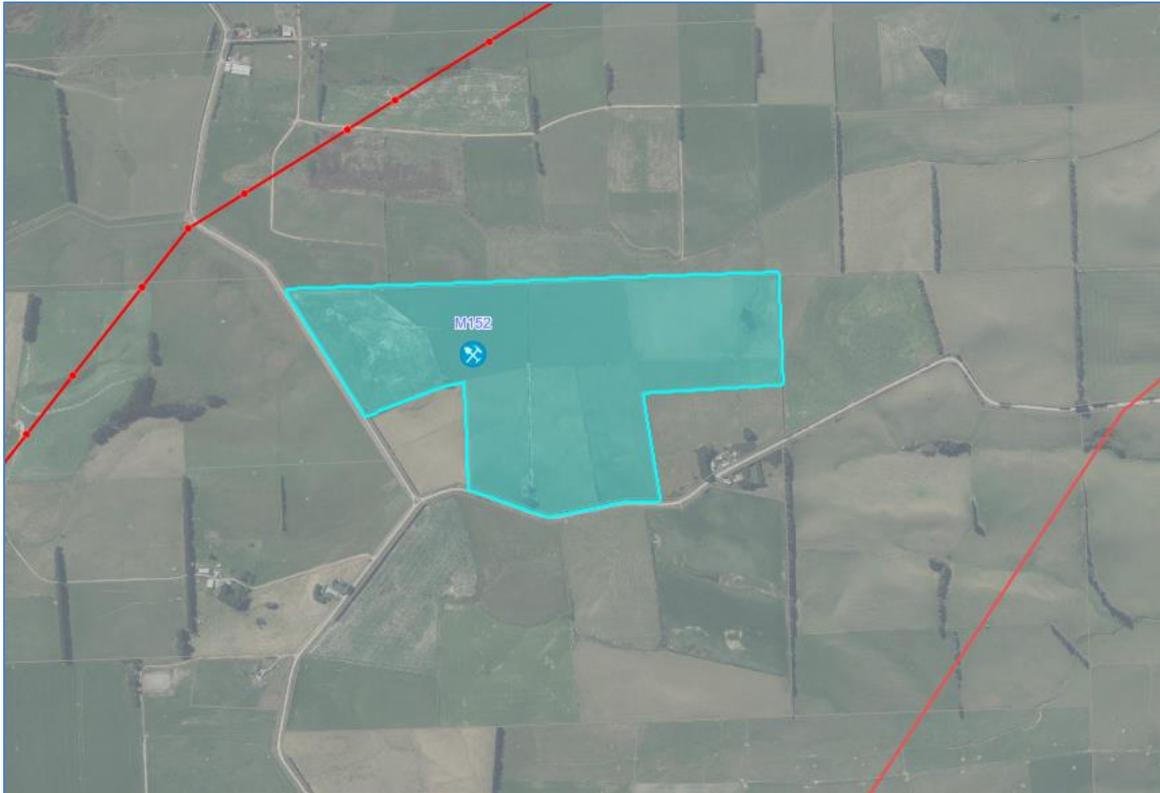


Figure 3: Aerial image of subject site showing Old Mining Point M152 (source: Grip Map)

### 3. ACTIVITY STATUS

#### 3.1 Gore 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 reason:

- A **Restricted Discretionary** activity resource consent pursuant to Rule 8.10(4)(b) to undertake a four-lot subdivision, where each lot will exceed 2 hectares in area. 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*
  - viii. *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.

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

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

## **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 Approval/s*

*No persons have given written approval as part of this resource consent application.*

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

The adverse effects on the environment are considered to be no more than minor for the following reasons:

*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 5 are all of size and shape that meets the 2ha minimum specified area, which can accommodate a future residential unit, while proposed Lots 6 (44.28ha) and 7 (31.72ha) can continue to accommodate the existing rural land use for agricultural and farming activities. Due to the size of the lots meeting the 2ha minimum area, any future development is expected to comply with the Performance Standards in the District Plan for the Rural Zone and associated effects on the surrounding environment are considered to 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 the wider environment and neighbouring properties are less than minor.

The application and scheme plan does not include fixed building platform locations on proposed Lots 1 to 5, however, given the size of the lots and no indications of 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 7 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.

The proposed lots are considered to be consistent with the anticipated type of subdivision within the Rural Zone. It is considered that the size and configuration of the proposed allotments are appropriate to be used for rural lifestyle or rural 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 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 mapping system identifies the liquefaction risk on the site as 'negligible'. Therefore, it is considered that the subdivision will not exacerbate the risk of liquification 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.

The nearest high voltage powerlines are located approximately over 240m north-west of the subject site.

The Councils GIS mapping system identifies an Old Mine Point – M152 on Lot 3 DP 578755 (Proposed Lot 7). The applicant has previously provided evidence demonstrating that a historic mine did not exist in the location where the mine is currently shown (refer to SC2022-161).

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

#### *Ability to provide services*

There are no Council reticulated services located in the Rural Zone.

In terms of the services for Lots 1 to 5, potable water is proposed to be supplied via onsite roof/rainwater collection with appropriate treatment. The applicant has demonstrated there is sufficient space and appropriate areas for wastewater disposal. 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 individual lots.

In terms of electricity supply, the applicant has provided confirmation from PowerNet that its network can be extended to provide connections to proposed Lots 1 to 7 (reference emails from Fraser Neil – Operations (Distribution) Project Manager, dated 28 August 2023).

- PowerNet confirmed the following: "*PowerNets Networks can be extended to supply lots 1 to 7.*"

The applicant has provided confirmation that Yrless, Farmside and Spark 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.

The application has been assessed by Russell Paterson – Gore District Council’s Building Control Manager, and has raised no issues or concerns regarding the proposed lots (Reference email from Russell Paterson – GDC Building Control Manager, dated 19 September 2023).

Overall proposed Lots 1 to 5 can be feasibly serviced at the time of development. Any potential adverse effects on the wider environment in relation 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 impact 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 proposed subdivision will alter the landscape of the site with the introduction of rural lifestyle residential development in the future on proposed Lots 1 to 5. 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 building consent stage, it is considered any impacts on water quality, including groundwater will be less than minor.

#### *Effects on traffic*

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

The applicant proposes possible access locations for Lots 1, 3, 4 and 5, while proposed Lots 2, 6 and 7 will use existing access. The access locations meet the sight distance requirements of the Bylaw. The proposed vehicle crossing and access locations onto Chittock Road and Pinnacle Road for proposed Lots (1-5) shall be constructed at the time a building consent is lodged for a residential unit. The crossings must be constructed by an approved roading contractor to meet the requirements of Diagram R09-1 ‘Private Rual Access’ contained in the Bylaw.

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.

#### *Conclusion: Effects On The Environment*

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed activity will not have adverse effects on the environment that are more than minor.

#### **Step 4 – Public Notification in Special circumstances**

- There are no special circumstances that warrant public notification.

## 4.2 Limited notification – Section 95B

In accordance with section 95B, the following steps have been followed to determine whether to give limited notification of the application:

### Step 1 – Certain affected groups or persons must be notified

- There are no protected customary rights groups or customary marine title groups affected by the proposed.
- The proposal is not on or adjacent to, and will not affect, land that is the subject of a statutory acknowledgment.

### Step 2 – Limited notification precluded

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.
- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

### Step 3 – Certain other affected persons must be notified

- Under Step 3, if the proposal is a boundary activity, only the owner/occupier of the infringed boundary can be considered. The activity is not a boundary activity.
- For any other activity, a consent authority must notify an application on any person, if notification is not precluded by Step 2, and the consent authority decides, in accordance with s95E, that the proposed activity will have or is likely to have adverse effects on that person that are minor or more than minor.

An assessment in this respect is therefore undertaken as follows:

#### *Considerations in assessing adverse effects on persons under s95E*

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an “affected party”. No persons have given written approval to the application

however the applicant also owns the property at Lot 1 DP 301259, 39 Waikaka Road | 56 Morrison Road (Lot 2 DP 301259), Lot 1 DP 578755 and 286 Morrison Road (Lot 2 DP 578755). As such, written approval is inferred, and effects on these properties have been disregarded.

Taking into account the exclusions in sections 95E, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor.



**Figure 4: The neighbouring properties identified by blue dots. Yellow dots indicate land owned by the applicants (source: Grip Map)**

#### **118 Chittock Road (Section 10 Block I Chatton SD)**

- 118 Chittock Road is an 80ha rural site located north of the subject site, which follows a downhill sloping topography towards the east and is occupied by areas of mature vegetation and rural pasture. The existing building situated on 118 Chittock Road is located approximately over 500m from the proposed subdivision, specifically proposed Lot 1. Proposed Lot 7 occupies most of the common boundary with 118 Chittock Road and Lot 7 intends to retain the existing production farming land use, as such, the proposal will not detract from the character or amenity values and existing rural activity occurring on 118 Chittock Road.
- There are no proposed non-compliances pertaining to the boundary shared with 118 Chittock Road. The proposed subdivision is not expected to generate visual amenity and character effects towards the north. The proposal is not expected to have adverse impacts on the occupants and existing rural activities at 118 Chittock Road.

#### **Lot 1 DP 367960 and Lot 2 DP 367960**

- Lot 1 DP 367960 and Lot 2 DP 367960 are corner sites positioned between the boundaries of the subject sites separated land parcels. Lot 1 DP 367960 is the adjoining property to the southeast of proposed Lot 7, and Lot 2 DP 367960 is the adjoining property to the northeast of proposed Lot 6.
- Proposed Lot 6 and 7 is intended to retain its existing production farming land use, while the proposed 5 additional lots intended for rural lifestyle activities are positioned along the west side. The proposed subdivision will not result in any changes to the existing lawfully established situation experienced by Lot 1 DP 367960 and Lot 2 DP 367960. There are no non-compliances created as a result of the proposed internal boundaries. Therefore, amenity (including visual) and character effects on aforementioned sites arising from the proposal will be negligible.

#### **488 Pinnacle Road (Lot 1 DP 488813), Lot 2 DP 488813 and Part Section 4 Block I Chatton SD**

- Lot 1 DP 488813, Lot 2 DP 488813 and Part Section 4 Block I Chatton SD are located to the south side of the overall subject site, where the common boundary is occupied by rural pasture and a undulating topography across all sites.
- The closest neighboring dwelling is situated Lot 1 DP 488813, which is located approximately over 400m from the proposed subdivision, specifically proposed Lot 5. This is adequate buffer distance to mitigate any privacy or overlooking effects.
- Lot 2 DP 488813 and Part Section 4 Block I Chatton SD are rural lots utilized for farming activities. Proposed Lot 6 occupies majority of the shared boundary, and is intended to retain the existing production farming land use. As such, the proposal will not detract from the character or amenity values and existing activity occurring on the adjoining lots.
- There are no proposed non-compliances pertaining to the boundary shared with the aforementioned sites. As such the proposed subdivision is not expected to generate visual amenity and character effects towards the south. The proposal is not expected to have adverse impacts on the occupants at Lot 1 DP 488813, Lot 2 DP 488813 and Part Section 4 Block I Chatton SD.

#### **559 Pinnacle Road (Lot 1 DP 364521), Lot 2 DP 364521, 585 Pinnacle Road|573 Pinnacle Road (Section 37 Block I Chatton SD) and Section 36 Block I Chatton SD**

- Lot 1 DP 364521 and Lot 2 DP 364521 are located to the west of proposed Lot 5. Lot 1 DP 364521 is a 2.50ha rural lifestyle site that contains a dwelling and accessory building, which is located across the Pinnacle Road carriageway, approximately over 80m from proposed Lot 5. Lot 2 DP 364521 is a 78.41ha lot used for rural activities. The proposed subdivision will not result in any changes to the existing lawfully established situation experienced by Lot 1 DP 364521 and Lot 2 DP 364521.
- Section 37 Block I Chatton SD and Section 36 Block I Chatton SD are 80ha sized lots used for rural activities. Section 37 Block I Chatton SD contains existing buildings with the closest neighboring building located approximately over 30m from proposed Lot 4. This is considered adequate buffer distance to mitigate any privacy or overlooking effects. Section 36 Block I Chatton SD is occupied by areas of mature vegetation and rural pasture, and is located to the west of proposed Lots 1 and 2 across the Chittock Road carriageway.
- The proposed subdivision, new vehicle crossings and access will be formed directly from Pinnacle Road and Chittock Road with suitable sight distances. The traffic safety effects of

the proposal have also been considered by the Transport Engineer confirming that the effects on the wider roading environment will maintain the safe and efficient function of the councils roading networks.

- Any potential effects are considered to be less than minor as the proposed subdivision does not breach any permitted activity standards in relation to persons residing on or working on the aforementioned properties.

Overall, it is considered that the proposed subdivision will not create lots or future uses that are out of character for the area or detract from the existing amenity values given the provisions of the Operative District Plan. 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.

#### *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 s220 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 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 Lots 1 to 5 can accommodate future residential activity, while proposed Lots 6 and 7 can continue to be used for rural activities (utilizing existing services and access). Overall, 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.

### **Proposed District Plan**

The Gore Proposed District Plan (PDP) was notified on 31 August 2023, and at the time of this report the PDP is open for submissions. While objectives and policies of the PDP have relevance, in this instance the PDP objectives and policies are not considered to have weight and are not considered any further.

### **Southland Regional Policy Statement 2017**

Chapter 5 of the RPS (Regional Policy Statement) relating to Rural Land/ Soils is particularly relevant to this proposal.

#### *Objectives*

*Rural 1: Sustainable use of rural land resource*

*Rural 2: Life-supporting capacity of soils*

#### *Policies*

*Rural 1: Social, economic, and cultural wellbeing*

*Rural 2: Land use change and land development activities*

*Rural 4: Loss of high value soils from productive use*

*Rural 5: Effects of rural land development*

The proposal is consistent with the relevant objectives and policies in the Southland Regional Policy Statement (RPS), specifically the provisions contained in Chapter 5 (Rural Land/Soils). Objective RURAL.1 seeks to achieve sustainable use of Southlands rural land resources, 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 five additional lots (proposed Lots 1 to 5) to be created, which will enable the opportunity for those lots to be developed with a residential unit. The site comprises Class 3 soils. Proposed Lots 6 and 7 are to continue being farmed. These soils can continue to provide for rural activity following the subdivision. Proposed Lots 1 to 7 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 Southland Regional Policy Statement.

### **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 and matters of discretion do not provide scope for the consideration of highly productive land. No further assessment of the NPS-HPL is required.

#### 6.4 Other Matters

Section 104(1)(c) provides that when considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to any other matter the consent authority considers relevant and reasonably necessary to determine that application.

I consider there are no other matters that are relevant to this application that need to be considered.

### 7. SECTION 106 REQUIREMENT FOR SUBDIVISION

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. 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 5 will be served by a new legal and physical access to Chittock Road and Pinnacle Road at the time of development, while proposed Lots 6 and 7 will be served by an existing legal and physical access to Morrison Road.

### 8. PART 2 OF THE RMA

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

Part 2 (sections 5, 6, 7 and 8) of the RMA sets out the purpose and principles of the legislation, which as stated in section 5, is “Avoiding, remedying, or mitigating any adverse effects of activities on the environment”, section 7(c) “The maintenance and enhancement of amenity values” and section 7(f) “The maintenance and enhancement of the quality of the environment”.

In addition, Part 2 of the RMA requires the Council to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).

For the reasons outlined in this report, it is considered that the proposal meets the relevant sections of Part 2 of the RMA.

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

## 9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, subdivision consent is **granted** to undertake a seven-lot subdivision, over 2 stages, subject to the following conditions listed below imposed pursuant to Section 108 and Section 220 of the RMA.

Cancellation of existing s241(2) Amalgamation Condition is approved.

A ten year timeframe to give effect to this consent has been requested, which is double the RMA's standard five year timeframe for giving effect to consents. Due to the changing policy environment in the district, and as no strong reasons were provided as to why a longer timeframe is justified for this application, the request for a ten year timeframe is not supported.

### Consent Conditions

1. The subdivision must be undertaken in general accordance with the application made to the Council on 29 August 2023 and the further information received 21 September 2023 and the following plan:
  - *Southern Horizons, Lots 1 to 7 Being Subdivision of Lot 4 DP 367960 & Lot 3 DP 578755, Project #: 23041, Plan #: 02, Date: 27-09-23*

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.

### Amalgamation

3. As part of stage 1, Lot 7 and Lot 4 DP 367960 shall be held together with the balance allotment, Lot 4 DP 367960 and one record of title shall be issued to include both parcels.
4. As part of Stage 2, Lot 6 and Lot 7 shall be held together and one record of title issue to include both parcels.  
*LINZ reference: 1875581*

### Access

5. Prior to the certification pursuant to section 224(c) of the Resource Management Act 1991, of the stage of the subdivision creating Lot 3, the existing farm access must be closed.

### Consent Notices

6. Prior to the certification of each stage 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 and registered against the relevant Record of Title for Lots 1 to 7 to record that:
  - a) At the time of lodging a building consent for a residential unit, 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 residential unit, 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 residential unit, 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 electricity and telecommunication connection was not provided to the lot, and either a fixed-line electricity and telecommunication connection or an alternative service needs to be installed at a cost to the owner at the time that the connection is applied for.
- e) At the time of lodging a building consent for a residential unit, a new vehicle crossing to Chittock Road and Pinnacle Road must be located and constructed in accordance with the relevant access standard (Diagram R09-1) in the Gore District Council Subdivision and Land Development Bylaw 2019 to the approval of the Council's Roading Manager.

### Advice Notes

1. Any future development on Lots 1 to 7 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. 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.
3. At the time of this subdivision, a fixed-line telecommunication connection was not provided to Lots 2-3 and 6-8 and should a telecommunication service be required in the future, an alternative service (wireless broadband) needs to be installed at a cost to the owner.
4. Cancellation of the existing s241(2) Amalgamation Condition is approved as described in the application. A certificate will be issued on application for subdivision certification.

### 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



Jo Skuse  
**Consultant Planner**

Decision made by



Werner Murray  
**Delegate**

## **Appendix A: Approved Plans**

# APPENDIX A – APPROVED PLANS

