

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC23046 + LU23047
<b>Applicant</b>	N and R Tayler
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) for a two-lot residential subdivision breaching density.  Land use consent to establish a residential activity on a lot less than 400m <sup>2</sup> .
<b>Location</b>	13 Denton Street, Gore
<b>Legal Description</b>	Lot 9 DP 582
<b>Activity Status</b>	<b>Discretionary</b>
<b>Decision Date</b>	19 September 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 19 September 2023 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104B of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 and 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

Consent is sought to undertake a subdivision to create two residential allotments as follows:

Lot 1	353m <sup>2</sup> area (276m <sup>2</sup> Nett). The site currently has a relocatable building located at the front of the site which is proposed to be removed. Access is proposed onto Denton Street via the existing kerb crossing located in the northwest of the site.
Lot 2	456m <sup>2</sup> area. The site contains an existing residential dwelling and garage. Access is proposed onto Denton Street via a right of way leg-in. The existing kerb crossing to Denton Street at the northeast will be maintained to service this lot.

The subdivision will create an additional residential lot with an area less than 400m<sup>2</sup>. Therefore, land use consent is sought for the density non-compliance for the future residential activity. The site area of Lot 1 is the result of the location of an existing stormwater tank servicing the dwelling at the rear and the leg-in driveway.

The application was updated on the 5th and 8th September 2023 following consultation with Council's Building and Planning Department. Consultation with the Building Department was in relation to the existing services and the proposed easement over the existing stormwater tank, in favour of Lot 2, over Lot 1 (proposed in order to reach a compliant lot size). It was decided that it would be more practical to increase the size of proposed Lot 2 in order to contain the water tank and decrease the size of lot 1, rather than have easements over the stormwater tank. To that end an updated scheme plan 'Lots 1 & 2 being Subdivision of Lot 9 DP 582 Rev 3' was provided for a revised proposal which allows for the stormwater tank to be included within the boundary of Lot 2. This resulted in a smaller nett area for Lot 1, being 276m<sup>2</sup>.

### **Access:**

The existing vehicle crossing from Denton Street in the northeast corner will be retained for Lot 2. Lot 2 will be accessed by 3.5m wide right of way (77m<sup>2</sup> area). This is shown as Area A on the scheme plan.

The existing vehicle crossing from Denton Street in the northwest corner will be retained for Lot 1.

Both accesses will be established in accordance with the Gore District Council Subdivision and Bylaw.

### **Wastewater:**

Both lots are proposed to connect to the existing council services in Denton Street, through separate lateral connections.

The existing lateral connection serving Lot 2 will be retained. Lot 2 will have the right to drain wastewater to the main in Denton Street. Easement A is shown on the scheme plan to legally protect this service connection.

### **Stormwater:**

Both lots are proposed to connect to the existing council services in Denton Street.

Lot 1 stormwater will be addressed at the time of building consent. This is proposed to discharge via a lateral connection to the existing sump located in the carriage way.

Lot 2 will retain, the onsite inground stormwater tank (10,000L) for the existing residential dwelling. A sump is located in the right of way over Lot 1, for Lot 2 stormwater down the leg-in. This will connect to the existing sump located in the carriage way.

**Potable Water:**

Both lots are proposed to connect to the existing council services in Denton Street. Two separate lateral connections to 13 Denton Street were installed to serve Lot 1 and Lot 2 at the time of building consent (BC210230) for the residential dwelling on Lot 2. These both will be retained.

**Electricity and Telecommunication:**

Separate connections will be installed to Lot 1 and Lot 2 when residential development occurs. Powernet and telecommunication supply has been confirmed by the applicant.

## 2. SITE DESCRIPTION

The subject site is located at 13 Denton Street, legally described as Lot 9 DP 582. It is 809m<sup>2</sup> and is located in the Residential A zone. Access is provided to the site by two vehicle crossings from Denton Street.

The site contains an existing residential dwelling (consented under BC210230) and a residential garage (consented under BC210319) located at the rear of the section. Neither building is complete but are subject to respective building consents being certified by the Council's Building Department. An extension of expiry date was granted to both the garage and residential dwelling on the 19.04.2023.

Under BC210230 services in respect of stormwater, wastewater and portable water were installed to the boundary of the site for the existing residential dwelling and for an additional future residential dwelling. A type 1 stormwater sump has been installed halfway down in the proposed right of way for the use of the existing residential dwelling. There is an existing 10,000L inground stormwater tank, located north to the residential dwelling.

There is an accessory building, being a transportable house located at the front of the section. This will need to be removed before subdivision or lawfully established on site under the Resource Management Act 1991 and any necessary consent requirements under the Building Act. There are existing services provided for domestic purposes to this site.

The subject site is a flat site, surrounded by residential dwellings.

The Council's mapping systems identifies that the site is within an area prone to flooding subsequent to a stop bank breach or stop bank overtopping. The liquefaction risk across the site as 'negligible'.

This site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site.

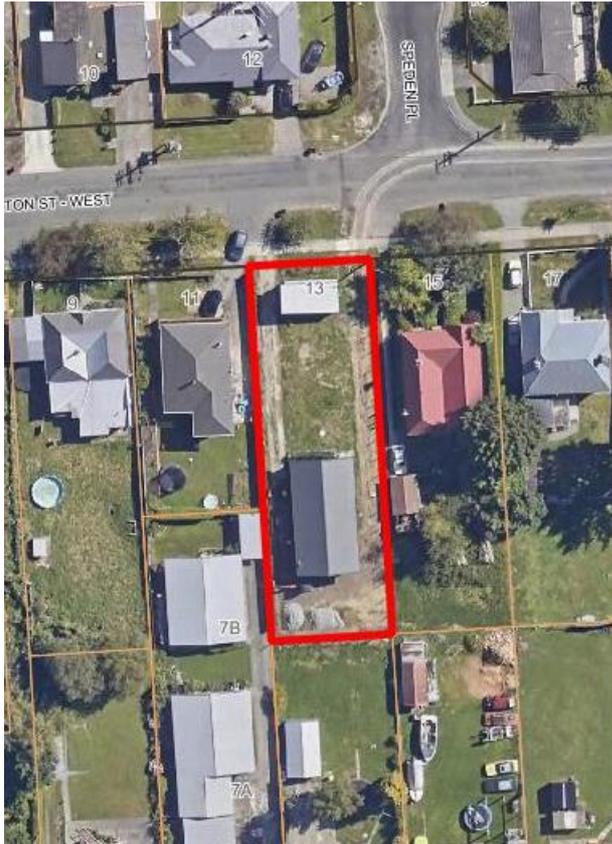


Figure 1: Subject site outlined in red.

### 3. ACTIVITY STATUS

#### 3.1 Gore District Plan

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

##### Subdivision

- A **discretionary** activity pursuant to Rule 8.10(5) to undertake a two-lot subdivision of the site, where Lot 1 does not comply with the provisos of 4(c), which requires each lot to have a minimum lot size exceeding 400m<sup>2</sup> in area. Lot 1 will be 353m<sup>2</sup>. Lot 2 will comply.

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*

#### **Land use**

- A **discretionary** activity pursuant to Rule 4.2.4 as the proposal results in a residential activity on a lot less than 400m<sup>2</sup>, in the Residential A zone.

### **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 not rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
  - a controlled activity; or
  - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

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

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

The following effects must be disregarded:

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

#### *Written Approval/s*

No written approvals have been provided.

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 all subdivisions require resource consent, there is no permitted baseline.

In relation to land use, it is a permitted activity to establish a residential unit on a site provided it has a site area of 400m<sup>2</sup>. This permitted baseline is considered of relevance and applied to the land use assessment below.

#### **Subdivision:**

##### *Suitability of the allotments and future land use*

The subdivision layout proposes two allotments in the Residential A zone. Lot 2 meets the minimum 400m<sup>2</sup> gross area specified in the Gore District Plan and has an existing residential unit and garage on site.

The existing dwelling on site utilises a buried water tank, situated north of the building. In order to include the tank within the boundary of Lot 2, Lot 1 is smaller than the prescribed 400m<sup>2</sup>, at 353m<sup>2</sup>.

The scheme plan 'Lots 1 & 2 being Subdivision of Lot 9 DP 582 Rev 3' reflects a practical allotment layout to ensure that the existing stormwater tank servicing the existing residential dwelling is located within Lot 2. Locating it within Lot 1 with an easement would result in an unusable space for Lot 1 and may create difficulties with fencing provision or appropriate outdoor space. A rear dwelling utilising a right of way leg-in is consistent with the infill subdivision pattern in Gore.

Lot 1 is proposed to be 353m<sup>2</sup> gross area, with the inclusion of the easement for the right of way (77m<sup>2</sup> in area) results in a 276m<sup>2</sup> nett area for future residential development.

The existing transportable house is proposed to be removed. The scheme plan illustrates Lot 1 to be regular in shape that can accommodate a smaller building. Bulk and location standards under the District Plan will dictate the size of the future building, in relation to the yards, daylight admission and height standards. Any future development will also be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw. These will both be assessed at the building consent stage.

Whilst the front lot is smaller than what the District Plan anticipates, given the overall size of the parent lot (in excess of 800m<sup>2</sup>) the resultant 2 dwellings, representative of infill development, is not out of character with the surrounding residential neighbourhood. The site density when viewed as an average does not exceed 1 unit per 400m<sup>2</sup>.

Overall, it is considered the proposed subdivision will create sites suitable for future residential land use.

#### *Suitability of land for subdivision – Natural Hazards and other Hazards*

The subject site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site. The Council's mapping system, which sources information from Environment Southland, identifies the site's liquefaction risk as negligible.

The Gore District Council's mapping system identifies the site as being prone to flooding subsequent to a stop bank breach or stop bank overtopping. The applicant has volunteered a consent notice on the record of title for Lot 1 and Lot 2, recommending the landowner adopt flood proofing techniques to mitigate flood effects. The consent notice will highlight that the property is subject to an inundation hazard due to a stop bank breach.

Any adverse effects, with respect to natural hazards and other hazards on the wider environment will be less than minor.

#### *Ability to provide services*

Both lots will connect to the existing reticulated services located in Denton Street.

Lot 2 will retain its existing connections. Lot 1 connections will be addressed at the time of a building consent, noting that there are existing services installed to the boundary.

Council's 3 Waters Asset Manager, Mr Matthew Bayliss, has reviewed the application and has confirmed the lots can be feasibly serviced. The services have been installed to the boundary of 13 Denton Street and will be retained.

The application demonstrates that Powernet have confirmed electricity is available for the proposed lots, and additionally telecommunications are available.

Based on the above, the adverse effects on the environment from the proposed servicing of the subdivision 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 areas shown as having identified ecological or cultural values.

The proposed subdivision will not have noticeable effects on the water quality in the surrounding area. The scale of the proposed subdivision does not require heavy earthworks.

Overall, adverse effects on the environment are considered to be less than minor.

#### *Effects on traffic*

The Council's Senior Roading Operations Officer, Mr 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 (the Bylaw) apply to this situation. The sight distances available at both proposed vehicle accesses from Denton Street meet the requirements listed in the 'Required Sight Distances' Table 3.3B of the Bylaw.

The property has two existing accesses onto Denton Street. Lot 2 will utilise the access located in the northeast corner, whilst Lot 1 will utilise the access located in the northwest corner of the site. Both of these accesses are required to be upgraded in accordance with the Vehicle Crossing Residential Diagram R03 contained in the Bylaw. This will include widening the asphalt between the carriageway seal and the kerb crossing, extending to the property boundary.

On this basis, Mr Hasler recommended that the application be approved from the transportation perspective. Effects on the wider environment are therefore considered to be less than minor.

#### *Provision of easements*

A right of way leg-in driveway is proposed to allow access to Lot 2, over Lot 1. This is in favour of Lot 2 as indicated by area A on the scheme plan.

At the time of survey, all necessary easements will be confirmed and registered onto the relevant Record of Titles. Adverse effects on the wider environment are considered to be less than minor.

#### **Land Use**

Proposed future residential development on Lot 1 will result in a non-compliance with the District Plan standards with respect to lot size. The Applicant has applied for a residential activity to be enabled on a lot less than 400m<sup>2</sup>.

The subdivision design accommodating the driveway access of Lot 2 and the stormwater tank, has resulted in a smaller nett site area for Lot 1.

Future residential development can be accommodated on Lot 1 due to the regular shape and dimensions of 12.5m by 21m. The breach in lot size will not result in adverse effects from over-development of the site or negatively affect the streetscape and wider area, given district plan bulk and location standards will apply to a future dwelling.

In addition, whilst the front lot is smaller than what the District Plan anticipates, given the overall size of the parent lot (in excess of 800m<sup>2</sup>) the resultant two dwellings, representative of infill development, is not out of character with the surrounding residential neighbourhood. The site density when viewed as an average does not exceed 1 unit per 400m<sup>2</sup>. In this respect traffic generation, built form and views from the street will not be dissimilar to a compliant lot size.

Adverse effects on the environment are considered to be no more 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.

*Assessment: Effects on Persons*

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

*Neighbouring Properties*

The adjacent persons assessed below are all the owners/occupiers of the properties that share a common boundary with the subject site.



Figure 2: Neighbouring properties indicated by yellow dots to the subject site outlined in red.

### Subdivision

It is considered that the proposed subdivision will maintain the character of the residential area. Lot 2 achieves the standard for minimum lot size and has an existing residential unit. Although Lot 1 is smaller than the anticipated lot size for the Residential A Zone, it is of a shape and size that can accommodate a future residential unit. Any future building will be subject to the district plan bulk and location requirements.

Existing amenity values will not be altered to an unacceptable degree given the parent lot size. The consequent increase in density, and associated effects such as noise and traffic generation will be less than minor given the scale of the subdivision.

The subdivision would maintain the safe and efficient function of the Council's roading network, any effects relating to traffic generation are considered to be less than minor for any adjacent owners and occupiers.

The lots can be feasibility serviced such that adverse effects on neighbouring persons will be less than minor.

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

### Land Use

Future residential development can be accommodated on Lot 1 due to the regular shape and boundary dimensions of 12.5m by 21m. The breach in lot size will not result in adverse effects from over-development of the site or negatively affect the streetscape, given district plan bulk and location standards will apply to a future dwelling. The bulk and location standards will ensure

adequate setbacks from neighbours are achieved whilst recession plane standards will prevent adverse shading effects.

In addition, whilst the front lot is smaller than what the District Plan anticipates, given the overall size of the parent lot (in excess of 800m<sup>2</sup>) the resultant two dwellings, representative of infill development, is not out of character with the surrounding residential neighbourhood. The site density when viewed as an average does not exceed 1 unit per 400m<sup>2</sup>. In this respect, traffic generation, future built form, and density will not be dissimilar to a compliant lot size.

Overall, adverse effects on owners of and persons residing at, properties with adjoining boundaries will be less than minor.

Overall, adverse effects on any persons will be less than minor.

#### *Conclusions: Effects on Persons*

In terms of section 95E of the RMA, and on the basis of the above assessment, no person is considered to be adversely affected.

#### **Step 4 – Special Circumstances for Limited Notification**

- There are no special circumstances that warrant limited notification of the application.

## **5. DECISION PURSUANT TO S95A AND S95B OF THE RMA**

For the reasons set out above, under s95A and s95B of the RMA, the application is to be processed on a non-notified basis.

## **6. SECTION 104 ASSESSMENT**

### **6.1 Matters for consideration**

This application must be considered in terms of Section 104 of the RMA.

Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) *any relevant provisions of:*
  - (i) *A national environmental standard;*
  - (ii) *other regulations;*
  - (iii) *a national policy statement;*
  - (iv) *a New Zealand coastal policy statement;*
  - (v) *a regional policy statement or proposed regional policy statement;*

- (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

## 6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects.

## 6.3 Relevant Provisions

### District Plan

#### **Chapter 3 – Land Use Activities – A Framework**

##### *Objectives*

- (1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area.*
- (2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality.*

##### *Policies*

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

The land use is appropriate and will not lead to adverse effects on the amenity and character of the surrounding area. The proposed building on a smaller net area than anticipated by the District Plan still maintains the character and amenity value of the Residential Zone given the overall average density remains one unit per 400m<sup>2</sup>. A smaller residential unit may result on the site given the bulk and location standards in the plan. The built form standards can be achieved and will continue to maintain amenity values.

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

#### **Chapter 4A - Natural Hazards**

*Objective (1) Ensure the public is aware of the likelihood and consequences of natural and man-made hazards within the District.*

*Objective (2) Minimise the risk to people and property from inundation*

*Policy (1) Promote public awareness of natural and man-made hazards.*

*Policy (4) Within areas shown as “Subject to Actual or Potential Inundation” on the District Plan Maps the Gore District Council will:*

*(b) in respect of any development in the urban area of Gore shown as lime green on the District Plan maps, encourage:*

- (i) the adoption of flood proofing techniques or other measures to avoid the adverse effects of flooding on the activity,*
- (ii) measures to avoid the adverse effects of the activity on other property during a flood*

Policy 4(b) of the Natural Hazards chapter is the most relevant policy in relation to natural hazards for this site. Policy 4(b) requires encouragement of techniques/measures to avoid the hazard to address

this policy, the applicant has volunteered a consent notice to be registered on the title to encourage the consent holder to adopt flood proofing techniques to mitigate flood effects. The consent notice will highlight that the property is subject to inundation hazard and will encourage the landowner to implement mitigating methods in line with Policy 4A.4(4)(b).

## **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.*

It is considered that the subdivision is of a suitable size and shape to accommodate future development on proposed Lots 1 and 2. Although Lot 1 is under the minimum required 400m<sup>2</sup> lot size for the Residential A zone, it can still accommodate future residential activity on the proposed lot. The proposal will help provide additional residential lots in the Gore residential area. There is sufficient space on each lot to ensure that there is compliance with the rules and standards of the Gore District Plan when building is to occur.

Reticulated service connections can be provided adequately, and it is considered that the subdivision can occur without resulting in adverse effects on Council's reticulated services. All works will be required to be undertaken in accordance with the Gore District Subdivision and Land Development Bylaw 2019.

There are no potential adverse effects on water quality and groundwater from this proposed two lot subdivision.

Overall, the subdivision is considered to be consistent with the objectives and policies of both Chapter 3, 4A and Chapter 8 of the Operative District Plan.

## Southland Regional Policy Statement 2017

The proposed subdivision is in accordance with the Southland Regional Policy Statement 2017 (RPS). The application, although not compliant with the minimum lot sizes of the District Plan for residential zones, is still able to maintain sustainable urban development anticipated by the RPS. The additional lots provide positive environmental, social, economic, and cultural outcomes in the Gore District, accommodating for a range of individuals in the district. The overall subdivision is not sporadic and reads in the residential zone as being appropriate for urban growth and development.

### 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.

In this case each allotment has a legal and physical access. Both accesses are required to be upgraded in accordance with the standard R03 outlined in the Gore District Council Subdivision and Land Development Bylaw.

In this case, both proposed lots are within a flood hazard, subject to possible flooding in the event of a stop bank breach or overtopping event.

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).

ES are currently undertaking works to improve the effectiveness of the stop banks. They are designed to protect against a 1 in 100 year flood. The proposed subdivision of the land is unlikely to accelerate material damage from natural hazards either onsite or off.

Overall, the proposal is considered suitable under Section 106 of the RMA.

### 8. 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 enable an additional residential dwelling to be constructed in the future. These additional lots will enable people and communities to provide for their social, economic and cultural wellbeing, benefiting the community. 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 land use is appropriate within this residential landscape, as there are a number of existing residential lots in the surrounding area of similar size.

### *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. The proposal is not considered to be inconsistent with the principles of the Treaty of Waitangi.

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

## **9. DECISION ON RESOURCE CONSENT**

### **Decision A**

Pursuant to Section 104B of the RMA, consent is **granted** to subdivide 13 Denton Street into two allotments subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

### **Consent Conditions**

1. The subdivision shall be undertaken generally in accordance with the application made to the Council on the 18.07.2023, the further information received 05.09.2023 and the following plan:
  - ‘Lots 1 & 2 Being Subdivision of Lot 9 DP 582, Plan #02, Rev 3, drawn by Southern Horizons, dated 08.09.2023’.

### ***Prior to S223 Certification***

2. Prior to Council signing the Survey Plan 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.
3. The consent holder shall meet the costs for the preparation, review, and registration of any easement instrument(s) on the relevant Record of Title.
4. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder must provide to Council a written statement from

a Licensed Cadastral Surveyor, accompanied by any necessary evidence, to the effect that all services are confined to their respective lots or provision has been made for suitable easements to be granted and reserved in the Land Transfer Plan where appropriate.

### ***Prior to S224c Certification***

5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive Officer of the Gore District Council, complete the following, in accordance with the details provided in the resource consent application and the Council's standards:

- a. The transportable dwelling on lot 1 is removed, or lawfully established on site under the Resource Management Act 1991.

Note: this is not a predetermination of consent approval, should the future dwelling result in further breaches of District Plan Rules.

- b. Upgrade the vehicle accesses to serve both Lot 1 and Lot 2, in accordance with the standards contained in Diagram R03 in the Gore District Council Subdivision and Land Development Bylaw.
- c. Form right of way A in accordance with the standards contained in the Gore District Council Subdivision and Land Development Bylaw.

6. Prior to certification 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 Records of Title for Lot 1 to record that:

- a. The site may be prone to flooding subsequent to a stop bank breach or stop bank overtopping. In respect of any development, the landowner is encouraged to adopt flood proofing measures, such as raising the flood level of future buildings, to avoid the adverse effects of flooding on the property.

7. Prior to certification 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 Records of Title for Lot 2 to record that:

- a. The site may be prone to flooding subsequent to a stop bank breach or stop bank overtopping. In respect of any development, the landowner is encouraged to adopt flood proofing measures, such as raising the flood level of future buildings, to avoid the adverse effects of flooding on the property.

### **Advice Notes**

1. Any future development on Lot 1 and 2 will be subject to the requirements of the Gore District Councils Subdivision and Land Development Bylaw and the Gore District Plan.

2. If the relocatable building on Lot 1 is to remain, it will be subject to the standards contained in the Gore District Council Subdivision and Land Development Bylaw and any necessary consent requirements under the Building Act.
3. Any work carried out on the legal roadway require the prior approval of the Council and consent holder must consult with the Roding 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.

## Decision B – Land Use

Pursuant to Section 104B of the RMA, consent is **granted** to enable a residential activity on Lot 1 that will be less than 400m<sup>2</sup> in area.

### Advice Notes

1. This resource consent does not constitute a Building Consent under the Building Act 2004. You should consult with the Building Control Manager of the Gore District Council to obtain information on any Building Consents required to undertake development.
2. The Gore District Plan and Gore District Council Subdivision and Development Bylaw 2019 sets out standards and requirements, which are required to be met in constructing any buildings.

### Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

The Council will contact you in due course to arrange the required monitoring. The Monitoring Officers time will be charged to the consent holder. It is suggested that you contact the Council if you intend to delay implementation of this consent or if all conditions have been met.

This resource consent is not a building consent granted under the Building Act 2004. A building consent must be obtained before construction can begin.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of section 125 of the RMA.

If you have any enquiries, please contact the duty planner on phone (03) 209 0330 or email [planning@goredc.govt.nz](mailto:planning@goredc.govt.nz).

Prepared by



Bridget Sim  
Graduate Planner

Decision made by



Werner Murray  
Delegate

## Appendix A: Approved Plans

# APPENDIX A – APPROVED PLANS

