Gore District Council Decisions



NOTIFICATION UNDER \$95A AND \$95B AND DETERMINATION UNDER \$104

Resource Management Act 1991

Application reference SC 25013

Applicant Angus Larsen & Janelle Gibson

Proposal Application under Section 88 of the Resource

Management Act 1991 (RMA) for a two lot subdivision

Location 319 Collins Rd, Chatton

Legal Description Lot 1 DP 12997

Activity Status Restricted Discretionary

Decision Date 01.05.2025

SUMMARY OF DECISIONS

- 1. Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**) the application will be processed on a **non-notified** basis given the findings of Section 5 of the Section 95A and 95B report. This decision is made by Werner Murray, on 1 May 2025 under delegated authority pursuant to Section 34A of the RMA.
- 2. Pursuant to Section 104 and Section 104A, B, C and D 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 for a two lot subdivision as follows:

Lot 1	Contains an existing dwelling, garage and	Lot 1 will retain existing access to Collins Road via a formed vehicle crossing.
2 hectares (ha)	animal shelter	Wastewater and stormwater are disposed of to ground.
		Rainwater collection is utilised for potable water.
Lot 2	Contains an existing farm utility shed	Lot 2 has frontage to Collins Road. Should services be required for a residential
5.99 ha	utility slied	unit in the future, wastewater and stormwater are proposed to be disposed of to ground.
		Potable water will be provided via rain water collection.

2. SITE DISCRIPTION

The subject site is legally described as Lot 1 DP 12997 and comprised in Record of Title SL10B/861. The total land area is approximately 7.99 hectares. The site is commonly referred to as 319 Collins Road, Chatten. The site is located on the north side of Collins Road approximately 200m west of the Gold Creek Road intersection.

The existing land use is generally agricultural pasture. The site contains a residential unit and accessory buildings.

The site has legal road frontage onto Collins Road where there is an existing formed vehicle access. An additional farm access is provided in the south east corner of the site. Collins Road is an unsealed low volume local access road. The road frontage of the proposed subdivision has a straight horizontal alignment with a curve at each end. The vertical alignment is gently undulating with a crest at the existing access onto proposed Lot 1. A 100kph speed restriction applies to the road however the operating speed is approximately 75kph.

The site is zoned rural under the Gore District Plan. The Gore District Council's mapping system does not identify the site as being subject to inundation. It identifies the liquefaction risk across the majority of the site as 'negligible', however the north western corner of the site is a 'medium' risk area. The site comprises Highly Productive Class 3 soils.

The site is not contained on Environment Southland's Selected Land Use Sites Register (SLUS register) for contaminated land.



Figure 1: Subject site shaded blue and surrounds

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 two-lot subdivision, where each lot will exceed 2 hectares in area.

The Council's discretion is restricted to the following:

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

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 27 November 2023. The further submission period closed on 12 April 2024 and hearings are currently underway. There are no rules with immediate legal effect that apply to the application.

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

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

3.3 Activity Status Summary

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

4. NOTIFICATION ASSESSMENT

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

4.1 Public notification – Section 95A

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

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

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

Step 3 – Public notification is required in certain circumstances

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

The following effects must be disregarded:

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

Written Approval/s

No written approvals have been 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 subdivision require consent and as such there is no permitted baseline.

Suitability of the allotments and future land use

The proposal seeks to subdivide the subject site into two allotments. This will result in the existing residential unit being held in a two hectare lot and the remaining land forming the balance of the underlying title utilised for agricultural activity.

The resultant lots will meet or exceed 2 hectares, therefore the development is in line with what the District Plan enables in the Rural zone. The District Plan has therefore anticipated the adverse effects of lots of this size and deemed them appropriate.

The land use is not proposed to change from residential use on Lot 2 and agricultural use on Lot 2. However, Lot 2 is sufficient to accommodate a residential building and associated onsite servicing to be established in the future. Due to the size of the lots meeting the 2 hectare minimum area, any future development is expected to comply with the Performance Standards in the District Plan for the Rural Zone and associated effects on the surrounding environment are considered to be no more than minor.

Suitability of land for subdivision – Natural Hazards and other Hazards

The subject site is not identified in the Selected Land Use Site Register ('SLUS') as an actual or potentially contaminated site, therefore any risk of the spread of contamination to the wider environment is less than minor.

The Council's mapping system, which sources information from Environment Southland, identifies the site is not subject to any inundation. The Council's mapping system also identifies the site's liquefaction risk as 'negligible' and 'medium'. The medium risk area covers around 1.8 hectares of the north western corner of Lot 2. Given the total size of Lot 2 is almost 6 hectares there is considerable area free from this hazard if buildings are proposed on the site in the future. The hazard can therefore be avoided and the adverse effects on the environment less than minor.



Figure 2: Medium risk liquefaction area shaded orange.

Overall, any adverse effects, with respect to natural hazards and other hazards on the wider environment, will be no more than minor.

Ability to provide services

There are no Council reticulated services located in this area of the Rural Zone. There are existing services on site servicing the residential unit. No further servicing is proposed as part of the subdivision as Lot 2 will retain existing agricultural land use, and no built development is proposed. However, given that the District Plan enables rural living on sites greater than 2 hectares, the Applicant has demonstrated onsite servicing is feasible, given the area of the site. Onsite servicing in respect to stormwater, wastewater and water can be dealt with at the time of building consent for future development on Lot 2 if this eventuates.

PowerNet confirmation of existing electrical supply has been provided with the application. Connection is not considered necessary at this time. Wireless coverage on both Spark and OneNZ networks is available in the area.

Overall, no change of use is proposed on the allotments, however the lots have been demonstrated to be suitable for future development on the land and any adverse effects on the wider environment will be no more 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 and any areas shown as having identified ecological or cultural values. The subdivision does not propose to change the use of the land and will continue to be utilised for rural living and agriculture. However, given that the District Plan enables rural living on sites greater than 2 hectares, the effects are anticipated by the Plan.

Onsite servicing has been demonstrated as feasible, the land uses on site will not change, it is considered any impacts on water quality, including groundwater would be no more than minor.

Effects on traffic

Council's Senior Roading Asset Manager, 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.

Proposed Lot 1

The applicant proposes to use the existing access to access this proposed lot. The sight distances in both directions meet the requirements of the Bylaw. This access is therefore considered to be acceptable.

Proposed Lot 2

The applicant has not provided a proposed access location for an access onto this lot. There is an existing paddock gate at the eastern corner of proposed Lot 2. Sight distances are acceptable at this location. This is likely to be the only location that is acceptable along the frontage of proposed Lot 2 as any shift west will reduce the available sight distance to less than is required due to a dip in the road to the west.

The existing access does not meet the requirements of diagram R09-1 and will require upgrading. It is recommended that when (and if) development occurs on Lot 2 for residential activity, the access must be upgraded to meet the requirements of the Bylaw. The Applicant has accepted a condition detailing a consent notice will be registered on the title for Lot 2, to address the Roading Manager's concerns.

On this basis, Mr. Hasler has accepted the proposal. It is considered that safe accesses will be provided to serve each lot in the subdivision and any effects on traffic will be no more than minor.

Provision of Easements

No easements are proposed as part of this subdivision. At the time of survey, all necessary easements will be confirmed and registered onto the relevant records of title. Adverse effects on the wider environment are considered to 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 <u>Schedule 11</u>.
- 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 properties that surround the site include mainly working farms with some rural residential development.

The proposed subdivision meets the standard for minimum lot size for the Rural zone. The District Plan has therefore anticipated the adverse effects associated with future development of this density and it is considered appropriate. The land uses permitted on the lot will remain unchanged, however additional rural living development may occur on Lot 2. Lot 2 is an acceptable size in order to accommodate agricultural and rural residential activity. Any future development will be required to adhere to the District Plan bulk and location standards, specifically boundary rules which ensure effects on neighbouring properties are less than minor.

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

The subdivision would maintain the safe and efficient function of the Council's roading network, subject to the volunteered and accepted conditions.

Services can feasibly be accommodated on-site for the vacant lot, with rainwater catchment and on-site tanks for potable water. Stormwater and wastewater will be discharged to ground within the boundaries of the individual lots. The effects of the subdivision with respect to servicing will therefore be less than minor for any adjacent person.

Natural hazards will not be exacerbated by the proposal given the size of the lots and hazard free land available for development.

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

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

The relevant operative objectives and policies are contained within Chapter 8 - Subdivision of Land of the District Plan. The relevant objective and policies seek that the size and shape of allotments are appropriate for the location and future land use, and that access and servicing can meet Council's standards.

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.
- (4) To ensure land development and servicing is undertaken to Council's standards.
- (5) To ensure that land subdivision results in allotments that are suitable for activities anticipated by the zone in which they are located.
- (6) Avoid adverse effects on water quality, including groundwater, from the development of subdivided land.

The proposed subdivision is consistent with the objectives and policies in Chapters 8. The size and layout of the allotments are practical and appropriate for the Rural zone. The proposed lots are of a shape and size that can accommodate future residential activity or continue to operate farming activities. The proposed lots can be serviced appropriately at the time of development onsite and provided with suitable access. The Applicant has volunteered consent notices to ensure that if future development occurs then the accessways will be undertaken to the Council standards.

The land use is not intended to change from the existing farming activities, thus the adverse effects on the water quality will be no more than minor.

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

Southland Regional Policy Statement 2017

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

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

The soils for the lots are considered high quality (Class 3) and will remain available for the activities the district plan permits, including rural living and farming activities. The lot sizes are considered appropriate given the compliance with the district plan minimum lot sizes. If development occurs on the site, on-site services will be designed at the time of building consent for the proposed vacant lots. It is considered that the proposal is aligned with the relevant objectives and policies in the RPS.

National Policy Statement Highly Productive Land

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

7. SECTION 106 REQUIREMENT FOR SUBDIVISON

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 the proposal will not accelerate material damage from natural hazard as there is land available for development which is free from the 'medium' liquefaction risk. There are existing legal and physical accesses which are to be retained. Overall, the proposal meets the requirements of s106 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 ensure the natural and physical resources of the rural land is protected for future generations. As has been assessed above, the adverse effects of the proposal can be avoided 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 anticipated land uses on the new lots are appropriate within this rural landscape, as there are a number of rural residential blocks and larger rural lots in the surrounding area.

Section 7 - Other matters

Particular regard has been given to the maintenance and enhancement of amenity values (section 7(c)) and maintenance and enhancement of the quality of the environment (section 7(f)). The amenity of the land and surrounding area will be maintained, and the subdivision will not have adverse effects on the quality of the environment.

Section 8 - Treaty of Waitangi

This site is not within any known heritage sites or statutory acknowledgement areas and therefore, this recommendation is not inconsistent with the principles of the Treaty of Waitangi.

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

9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, consent is **granted** to subdivide Lot 1 DP 12997 subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Consent Conditions

- 1. The subdivision must be undertaken generally in accordance with the application submitted to Council and the following plan:
 - 'Lots 1 & 2 Being Subdivision of Lot 1 DP 12997, 319 Collins Road', Plan # 01, Rev 0, Project 25011, created by Southern Horizons Surveying & Resource Management, dated 13-03-25
- 2. The consent holder shall meet the costs for the preparation, review, and registration of any easement instrument(s) on the relevant Record of Title.
- 3. 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.
- 4. Prior to Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be duly granted or reserved as necessary.
- 5. Prior to certification 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 against the Record of Title for Lots 2, and registered in due course, to record that:
 - a. At such a time a residential unit is constructed (and building consent lodged), the consent holder, shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the existing vehicle crossing onto Collins Road, located in the south east corner of the site, in accordance with Diagram R09-1 in the Gore District Council Subdivision and Land Development Bylaw 2019.
 - b. 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).
 - c. 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.
 - d. 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.

Advice Notes

1. Any future development 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 Lot 2 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. At the time of this subdivision, a power connection was not provided to Lot 2 and should a future connection be sought, this will need to be installed at a cost to the owner in order to be able to supply sufficient power to Lot 2.

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.

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

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

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

Prepared by Decision made by

Joanne Skuse Werner Murray
Senior Planner Delegate

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS



Designed

Project # - 25011

Scale

SURVEYING & RESOURCE MANAGEMENT

Gore • Ph: 027 468 2596 • hamish@southernhorizons.co.nz

Plan #

01

Datum

North Taieri 2000