

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC 26003
Applicant	Bulliers Trust
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to subdivide one allotments into two allotments in the rural zone.
Location	313 Waikana Road, Ferndale, Maitāwhiri
Legal Description	Lot 2 DP 615868 held in Record of Title 1233007
Activity Status	Restricted Discretionary
Decision Date	29 January 2026

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 29 January 2026 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104C of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 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 subdivide one allotment into two allotments within the Rural Zone under the Operative District Plan as follows:

Proposed new allotments	Proposed Lot Size	
Lot 1	2.06 hectares (ha)	Vacant
Lot 2	195.97ha	Vacant land utilised for primary production

There are no proposed development works as part of the subdivision.

Each lot will retain an existing vehicle crossing of Waikana Road.

Servicing for Lot 1 is proposed to be onsite. Rainwater collection is proposed, which will be stored and treated for potable use.

The subdivision scheme plan is shown in Figure 1 below.

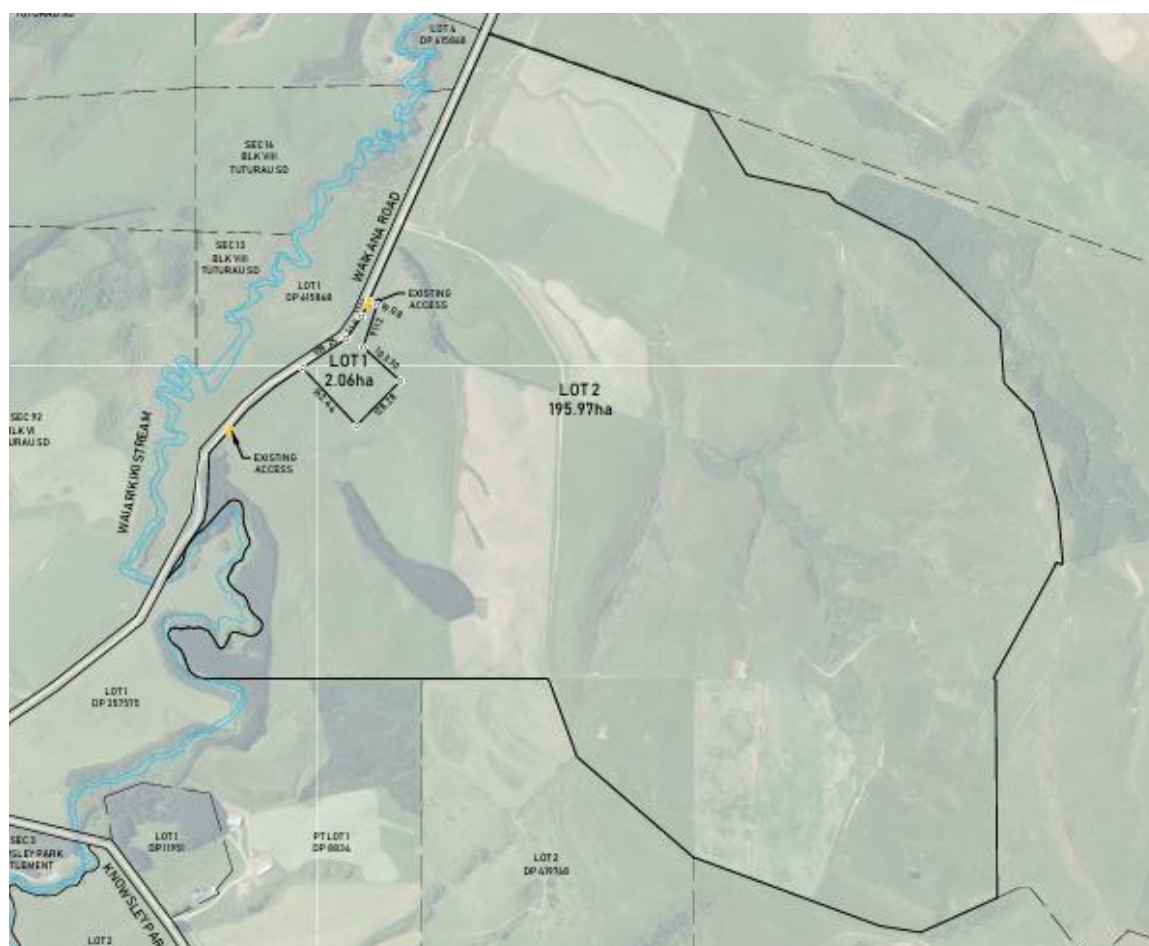


Figure 1: Proposed Subdivision Scheme Plan

2. SITE DESCRIPTION

The application site consists of a single allotment located at 313 Waikana Road, Mataura.

The site is zoned Rural under the Operative District Plan (ODP) and General Rural Zone under the Proposed District Plan (PDP).

The site is identified on the Manaaki Whenua Land Use Capability Maps as being LUC Class 3.

The surrounding area is largely open rural land as shown in Figure 2 below.

There are no Natural Hazard, Heritage or Cultural overlays relevant for the site.

There is a consent notice listed on the title which requires a vehicle crossing to be established or upgraded to meet Diagram R09-1 of the Gore District Council Subdivision and Land Development Bylaw 2019. Further it requires specific design of onsite stormwater and wastewater provision, as well as standards for potable water.



Figure 2: Site in yellow, surrounding area open rural land

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 pursuant to Rule 8.10(4)(b) to undertake a two-lot subdivision of the site, where each lot will exceed 2 hectares in area.

Council's discretion is restricted to:

- (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.*

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 the final Hearing was held April 7, 2025.

Decisions have not yet been released and only rules with immediate legal effect are relevant.

There are no rules with immediate legal effect which are relevant to this proposal.

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

The piece of land to which this application relates is not a HAIL site according to Gore District Council’s mapping. Further, the applicant has confirmed there are no contaminants or potential contaminants that could be hazardous to human health 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 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 with the application

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, there is no permitted baseline as all subdivision requires consent under the Operative Gore District Plan.

Assessment of Environmental Effects

The applicant has provided an assessment of environmental at section 8 of the AEE, attached at Appendix 1. This is adopted for the purposes of this report.

Suitability of the allotments and future land use

The subdivision layout is consistent with what the Operative Gore District Plan enables in the Rural zone. The allotments both exceed the 2-hectare minimum area specified.

The size and shape the Lots allow for future rural activities including residential and agricultural activities.

There are no Land Use Consents which need to be considered with this proposal.

An advice note is recommended which advises the consent holder that 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.

Overall, the proposed lots are considered to be consistent with the currently anticipated type of subdivision within the Rural zone and that any adverse effects on the wider environment will be no more than minor.

Suitability of land for subdivision – Natural Hazards

The Gore District Council's mapping system does not identify the site as subject to actual or potential flooding and the liquefaction risk on the site as 'negligible'.

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

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

Ability to provide services

The proposed new allotments are located in the Rural zone, and there are no reticulated services available within this area.

If future residential development is proposed on either lot, the proposed lot sizes will not constrain the ability to onsite wastewater and stormwater disposal. The design of such systems will be assessed under the building consent process. Potable water is proposed via roof collection. A Consent Notice will be included on the Lots advising any future landowners of the servicing standards that apply should a residential unit be constructed in future.

Lot 1 can be connected to the power network at the road boundary. No power connection is proposed for Lot 2. Additional demand generated by the subdivision will not impact the operation of this infrastructure.

Wireless broadband is the only available telecommunications for this property. This is considered adequate given the rural nature of the site.

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

Impacts on heritage, archaeological values, natural features, landscapes and water quality

There are no known heritage or archaeological features, or values identified on the site. It can be considered that the impacts of the proposed subdivision will be nil with respect to these features and values.

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

If any future development were to occur on the new allotments, stormwater and wastewater disposal will be assessed at the time of building consent. It considered any impacts on water quality, including groundwater would be less than minor.

Effects on traffic

No changes are expected on traffic levels as no development on any of the new allotments is proposed. In future, any development will be required to comply with the District Plan with resultant effects anticipated by the plan. Should an activity require resource consent for which traffic volumes may be increased, this will be assessed at that time.

Should a residential unit be established on the lots in the future, the access points are required to be upgraded to Diagram R09-1 requirements as detailed in the Gore District Council Subdivision and Land Development Bylaw standards. A consent notice is recommended in this regard.

The Application notes the sight distances of the proposed accessways are non-compliant as there is a shortfall in the required sightlines from the vehicle crossing to the south. This is a requirement of the Gore District Council Subdivision and Land Development Bylaw standards and if a dispensation is required under the bylaw, this is a separate process which sits outside of the RMA consenting process.

Nevertheless, access to the site is matter of discretion for consideration of the subdivision. The Applicant has stated the effects on the safety of the vehicle crossing are considered to be less than minor. Waikana Road is a low-volume rural road, carrying approximately 33 vehicles per day (MobileRoad.org, 2024). This low volume is considered to reduce the likelihood of conflict or incidents. The crossings are existing currently and should a residential unit be established in the future, the accessways will be upgraded. There are no structures or vegetation that would further limit visibility.

Overall, it is considered the sightline shortfall will have less than minor effects on the transport network.

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 are all of the owners of the properties that share a common boundary with the subject site.

The subdivision meets the standard for minimum lot size for the Rural zone under the Operative District Plan has therefore anticipated the adverse effects associated with existing and future development of this density on such lots and deemed it appropriate. Future developments on Lot 1 and 2 would be required to adhere to the District Plan (Operative and Proposed) bulk and location standards, specifically boundary rules which ensure effects on neighbouring properties are acceptable.

Proposed Lot 1, will generally be smaller than surrounding Lots in the area, however, the Operative District Plan anticipates this Lot size in the Rural Zone and therefore, any character and amenity effects are anticipated and will be less than minor on neighbouring properties.

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

Overall, it is considered that the proposed subdivision will not create lots or future uses that will detract from the existing amenity values anticipated by 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 specific circumstances that warrant limited notification of the application.

5. DECISION PURSUANT TO S95A AND S95B OF THE RMA

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

6. SECTION 104 ASSESSMENT

6.1 Matters for consideration

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

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

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

6.2 Effects on the Environment

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

6.3 Relevant Provisions

Operative District Plan

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

The applicant has assessed the relevant Objectives and Policies in Section 5.2 of the AEE. This assessment is considered complete, accurate and is adopted in full.

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 26 October 2023. The further submission period closed on 12 April 2024.

The Applicant has provided an assessment at section 6.2 of the AEE.

Given the resultant size of Lot 1, it is not considered to align with the objective and policies which seek to enable subdivision that creates allotments that can accommodate anticipated land use and are consistent with the purpose, character, and qualities of the applicable zone. Whilst the Applicant has proposed the residential use on Lot 1 is for a farm manager, this has not been

guaranteed in perpetuity, nor would it be practical to do so – i.e. by way of consent notice or covenant.

As the rules that have immediate legal effect are not relevant to this proposal, it is unnecessary to apply any weighting to the Proposed District Plan at present time.

Southland Regional Policy Statement 2017

The SRPS has been considered with this application and the proposal is consistent with this document.

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

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

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, the site is not subject to any natural hazard risks identified by Council's mapping and legal and physical access to Lot 1 and Lot 2 can be provided for.

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 assessed above, the adverse effects of the proposal can be avoided, remedied or mitigated.

Section 6 – Matters of national importance

Attention has been given to matters of national importance. This site does not contain any outstanding natural features or landscapes, nor an area of significant indigenous vegetation. It is considered the future land use is appropriate within this rural landscape.

Section 7 – Other matters

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

Section 8 – Treaty of Waitangi

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

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

9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, consent is **granted** to undertake a two-lot subdivision in the Rural zone subject to the following conditions imposed pursuant to Section 220 of the RMA:

Consent Conditions

General

1. The subdivision must be undertaken generally in accordance with the application made to the Council on 20.12.2026 and the following plan:

- ‘Two Lot Subdivision 313 Waikana Road, Ferndale, Southland’ Sheet 1 of 1, prepared by Bonisch, Rev A, dated 14/01/2026

This plan is attached as Appendix A.

2. The consent holder must meet the costs for the preparation, review and registration of any easement instrument(s) on the relevant Records of Title.
3. Prior to the 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 1991, shall be issued against the relevant Records of Title for Lot 1 and Lot 2 to record that:
 - a) 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.
 - 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, each application is to include an approved firefighting water supply and site services design by Fire and Emergency New Zealand (FENZ) to comply with SNZ PAS 4509 and the Subdivision and Land Development Bylaw 2019.

- d) At the time of this subdivision, a fixed-line telecommunication connection was not provided and either a fixed-line telecommunication connection or an alternative service (wireless broadband or mobile data) needs to be installed at a cost to the land owner at the time that the connection is required.
- e) At the time of this subdivision, a power connection was not provided. Should a future connection be sought, this will be at the land owners cost.
- f) At the time of lodging a building consent for a residential unit on Lot 1 the access serving that new dwelling must be upgraded, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019, if the access is not already to this standard.
- g) At the time of lodging a building consent for a residential unit on Lot 2 the access serving that new dwelling must be upgraded, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019, if the access is not already to this standard.

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. All drainage works requires a building consent.

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



Joanne Skuse, Planning Consultant

Decision made by



Werner Murray, Delegate

Appendix A: Approved Plan

