

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC26022
Applicant	Harvey and Janine Perkins
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for a two lot subdivision around an existing network utility structure.
Location	Hole and Corner Road, Gore
Legal Description	Part Section 31 Block IX Tuturau SD, held in Record Title L8C/229
Zone - Operative District Plan	Rural
Zone - Proposed District Plan	Rural General
Activity Status	Restricted Discretionary
Decision Date	14 July 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 14 July 2026 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 & 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 two-lot rural subdivision around the existing wind turbines on the site. The wind turbines were established in early 2026 and form part of the wider Kaiwera Downs Wind Farm that extend over several sites in the surrounding area. The proposal would create one additional lot which would accommodate the existing wind turbines. The balance of the existing site would be held together as a single lot such that no other sites are created as result of the subdivision.

The applicant has provided a detailed description of the proposal, the site and locality and the relevant site history in Section(s) 1.0 – 3.0 of the report entitled “*Resource Consent Application Hole and Corner Road, Gore – Two lot rural subdivision from one Record of Title*”, prepared by Allie Mullholland, and submitted as part of the application (hereon referred to as the applicant’s AEE and attached as Appendix 2). This description is considered accurate and is adopted for the purpose of this report.

2. ACTIVITY STATUS

2.1. Gore District Plan

Gore District Council currently have an Operative District Plan (ODP) and Proposed District Plan (PDP).

Council notified decision on the PDP on 30 January 2026. There are a number of appeals on these decisions. Where there are rules in the PDP that are treated operative under s.86F of the RMA, corresponding rules in the ODP are treated as inoperative.

Consent is required under Section 9(3) of the RMA for breaches to a District Rule as defined in s43AAB, being the rules in the ODP and PDP which are listed below.

Operative District Plan

The subject site is zoned Rural in the ODP, however the relevant rules under the ODP are treated as inoperative given the relevant rules under the PDP are not subject to appeal and therefore treated as operative pursuant to section 86F.

Proposed District Plan

The site is zoned Rural General in the Proposed District Plan and the proposed activity requires resource consent under the PDP for the following reason(s):

Rules treated as operative (s86F):

Subdivision

- A **controlled** activity resource consent pursuant to Rule SUB-R6 for the subdivision of land solely to create an allotment that is for the purpose of network utilities. Council’s control is with respect to the following:

1. The size, design and layout of allotments for the purpose of network utilities.

2. Legal and physical access to and from allotments.
3. Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems, stormwater control and disposal, telecommunications and electricity.
4. Subdivision design in response to the sites and surrounding areas natural and physical features, character, amenity, constraints and vegetation.
5. Measures to avoid, remedy or mitigate adverse effects on:
 - a. any natural hazards or other risks;
 - b. any historic heritage or notable tree;
 - c. a Significant Natural Area, Outstanding Natural Landscape or Feature;
 - d. an area of indigenous vegetation, waterbodies, ecosystems;
 - e. existing infrastructure; and
 - f. any existing or permitted adjoining or adjacent land uses.

Land use

- A **restricted discretionary** activity resource consent pursuant to Rule ENRG-R1.1, due to non-compliance with ENRG-S1.2.b in relation to the maximum number of three turbines on a site which is more than 20 hectares. The proposed subdivision would create a new site of 41 hectares and will contain 4 wind turbines. Councils discretion is limited to the following:
 1. The type, scale, form and location of the turbine and any adverse effects on the character, amenity, or indigenous biodiversity of the locality or impacts on Ngāi Tahu cultural values listed in MW -1.2.
 2. The ability to mitigate any adverse effects on visual amenity or on Ngāi Tahu cultural values listed in MW-1.2 through use of screening, planting and alternative design.
 3. Adverse noise and vibration effects.
- A **restricted discretionary** activity resource consent pursuant to Rule ENRG- R1.1, due to non-compliance with ENRG-S1.4.b which requires wind turbines to be setback from site boundaries by a distance 10 times the height of the structure. The proposed turbines have a height of 156m and are within 61.69m. Councils discretion is limited to the following:
 1. The type, scale, form and location of the turbine and any adverse effects on the character, amenity, or indigenous biodiversity of the locality or impacts on Ngāi Tahu cultural values listed in MW -1.2.
 2. The ability to mitigate any adverse effects on visual amenity or on Ngāi Tahu cultural values listed in MW-1.2 through use of screening, planting and alternative design.
 3. Adverse noise and vibration effects.

2.2. 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.

2.3. Activity Status Summary

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

3. 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.

3.1. 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 precluded as follows:

- The application is not a controlled activity.

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.

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 fee-simple subdivision requires resource consent and therefore there is no relevant permitted baseline.

Assessment of Environmental Effects

Subdivision

The size, design and layout of allotments for the purpose of network utilities.

The existing wind turbines are located on the elevated terraces of the subject site to maximise their operational efficiency. The proposed subdivision design reflects this arrangement, with the proposed boundaries generally following the site’s topography and existing land use pattern. This enables the allotment containing the turbines to include the flat terraced land required for their operation, while avoiding the inclusion of any more land than is necessary. The subdivision also ensures that the maximum practicable area of land is retained within the larger balance farming lot, thereby maintaining land available for farming activity as anticipated by the District Plan and supporting the continued maintenance of the site’s rural farming character.

As such the effects of the proposed subdivision design would be no more than minor.

Legal and physical access to and from allotments.

Currently the site gains legal and physical access from Hole and Corner Road at the northwest corner of the site. It is proposed to continue to use this access for both proposed lots. Appropriate easements are proposed to ensure that Proposed Lot 2 has legal access over Proposed Lot 1 to this legal road.

Council’s Roading Asset Manager, Murray Hasler as reviewed the application and notes that the existing access is semi-formed which is not constructed in accordance with the Subdivision and Land Development Bylaw 2019. However, Mr. Hasler states that the proposed activity on proposed Lots 1 and 2 will produce very little additional traffic. Vehicles travelling on this section and on the proposed right of way (RoW) across Lot 1 to Lot 2 are likely to have off-road capabilities.

On this basis, the adverse effects are considered to be no more than minor.

Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems, stormwater control and disposal, telecommunications and electricity.

Considering the nature of the existing land uses being network utility and farming related and the absence of buildings associated with this use, which are currently in operation without infrastructure services, it is not considered that the proposed subdivision would necessitate the installation of new infrastructure services. Should any services be required in the future, there is

sufficient space for on-site services to be provided. Therefore, any adverse effects relating to this are no more than minor.

Subdivision design in response to the sites and surrounding areas natural and physical features, character, amenity, constraints and vegetation.

As outlined above, the proposed subdivision design generally follows the site's topography and existing land use pattern. This enables the allotment containing the turbines to include the flat terraced land required for their operation, while avoiding the inclusion of any more land than is necessary. The subdivision also ensures that the maximum practicable area of land is retained within the larger balance farming lot, thereby maintaining land available for farming activity as anticipated by the District Plan and supporting the continued maintenance of the site's rural farming character. On this basis adverse effects relates to this would be no more than minor.

Measures to avoid, remedy or mitigate adverse effects on natural hazards, other risks, historic heritage, notable trees, a Significant Natural Area, Outstanding Natural Landscape or Feature, areas of indigenous vegetation, waterbodies, ecosystems, existing infrastructure, and any existing or permitted adjoining or adjacent land uses.

As the both the wind turbines and farming activities that are to be contained within each allotment are already in operation, and no other uses will be enabled that could not currently be undertaken as of right, it is considered that the proposed subdivision would not result in any additional effects relating to natural hazards, indigenous vegetation, waterbodies ecosystems or existing or permitted nearby lan uses. There are no outstanding natural landscapes or features or existing infrastructure that would be impacted by the development.

As such, the adverse effects relating to these matters would be no more than minor.

Land use

The proposed development requires land use consent because the subdivision will create a new site containing four wind turbines that are located closer to the proposed boundaries than permitted. However, as the turbines are already constructed, the non-compliance arises as a technical consequence of creating new sites and boundaries through the proposed subdivision, rather than from the establishment or operation of the turbines themselves.

On this basis, and given the turbines are already in place, any 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.

3.2. 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 for a controlled activity, however, is 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.

The subject site is located within a rural environment comprising larger allotments used primarily for farming and forestry activities. The subdivision is proposed to enable the existing windfarm to be held within its own title, while the balance of the site would continue to be retained and used as a farm holding. The subdivision would not authorise or facilitate any additional physical development on the site, nor would it create an expectation of further development. Both resulting lots would continue to have legal and physical access via the existing access from Hole and Corner Road. Accordingly, the proposal would not result in any discernible change to the use, character, access arrangements, or effects of the site, and any adverse effects on surrounding properties are considered less than minor.

Furthermore, in relation to breaches relating to the number of turbines on a site and proximity to site boundaries, as outlined above the number of turbines at this location will remain unchanged as a result of the proposal. Furthermore, their proximity to the proposed boundary would not give rise to any effects outside of the subdivision. As a result, the adverse effects relating to this upon surrounding properties would 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.

4. 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.

5. SECTION 104 ASSESSMENT

5.1. 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.*

5.2. 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.

5.3. Relevant District Plan Provisions

Operative District Plan

The relevant operative objectives and policies are contained within Chapters 7 (Utilities) and 8 (Subdivision of Land) of the Operative District Plan. The applicant has provided an assessment against the relevant objectives and policies of the Operative District Plan within section 11.6 of the AEE. This assessment is considered accurate and is adopted for the purposes of this report. With the following additional assessment

The relevant objectives and policies of chapter 8 (utilities) seek to that provision is made for the development and use of utilities in the District in order to meet the needs of the community and protect the existing infrastructure of the District. It is considered that the proposal would be consistent with these objectives and policies as the proposed subdivision around existing wind turbines would not impact upon the maintenance and operation of these turbines and would not enable other land uses that could give rise to adverse reverse sensitivity effects.

Overall, the proposal is consistent with the provisions of the Operative District Plan.

Proposed District Plan

The relevant operative objectives and policies are contained within the Subdivision, Rural General and Energy Chapters of the Proposed District Plan. The applicant has provided an assessment of the relevant objectives and policies of the Proposed District Plan within Section 11.5 of the AEE. This assessment is considered accurate and is adopted for the purposes of this report, with the following additional assessment:

The relevant objectives and policies of the Subdivision Chapter of the Proposed District Plan seek to facilitate the orderly subdivision of land that: achieves patterns of land development that are compatible with the zone and its anticipated land uses; respond to the physical characteristics and constraints of the site and surrounding environment; protects the productive capability of rural land.

The proposed subdivision is designed to respond to the existing farming/network utility uses on site and the existing topography of the site. The design enables the balance of the site to remain for the anticipated farming of rural land, ensuring productive capacity and rural character of the site is retained. As such, the proposed subdivision would be consistent with the relevant objectives and policies of the Proposed District Plan.

The Rural General Chapter of the Proposed District Plan recognises the importance of primary production and rural industry to the social, economic and cultural well-being of the district and seeks to ensure the character and qualities of the General Rural zone continues to comprise of primary production activities with high levels of rural amenity.

As outlined throughout this report, the proposed subdivision is design around the existing land uses on site and ensure that the proposed network utility allotment only includes the flat terraced land required for the operation of turbines and avoids the inclusion of any more land than is necessary. This ensures that the maximum practicable area of land is retained within the larger balance farming lot, thereby maintaining land available for productive farming activity and supporting the continued maintenance of the site's rural farming character. As such the proposal is considered to be consistent with the Rural Chapter of the Proposed District Plan.

In regard to the provisions of the Energy Chapter of the Proposed District Plan, the relevant objectives and policies of this chapter seek to ensure operation and maintenance of renewable energy activities are enabled and the safe and efficient operation, maintenance and upgrading of existing electricity generation activities is not constrained or compromised by reverse sensitivity effects. It is considered that the proposal would be consistent with these objectives and policies as the proposed subdivision around existing wind turbines would not impact upon the maintenance and operation of these turbines and would not enable other land uses that could give rise to averse reverse sensitivity effects.

As such, the proposal is consistent with the relevant objectives of the Energy Chapter and the Proposed District Plan as a whole.

Weighting

In this case, as the conclusions reached in the above assessment lead to the same conclusion under both the ODP and PDP, no weighting assessment is required.

5.4. Other Relevant Statutory Documents

Southland Regional Policy Statement 2017 (SRPS)

The proposed subdivision is considered to largely give effect to the relevant provisions of the SRPS in that it would support the generation and use of renewable energy as sought by Objective ENG.3 and supporting policies whilst ensuring the productive capacity of the balance of the site is maintained as sought by Objective RURAL.2.

As such, the proposal is considered to be generally consistent with the provisions of the SRPS

6. 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 identified as being subject to natural hazards within Council's hazard mapping and as such is unlikely to give rise to effects from natural hazards. Furthermore, appropriate legal access to both proposed lots

is secured through easements. As such, there is no reason not to grant subdivision consent under s106 of the RMA.

7. PART 2 OF THE RMA

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

Section 6 relates to matters of national importance. There are no matters of national importance relevant to this proposal.

Section 7 relates to any other matters that includes but is not limited to the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values and the benefits to be derived from the use and development of renewable energy. The proposed subdivision relates to the support of existing renewable energy and will maintain the natural and physical resources and surrounding amenity values. As such, the proposal is consistent with Part 7.

In regards to Part 8, the principles of Te Tiriti o Waitangi have been taken into account without this decision.

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

8. DECISION ON RESOURCE CONSENT

Pursuant to Section 104A of the RMA, consent is **granted** to undertake a two-lot subdivision around existing network utilities subject to the following conditions imposed pursuant to Section 220 of the RMA:

Consent Conditions

1. The development shall be undertaken in general accordance with the application as submitted and the following plans:
 - Definition Surveying – Scheme Plan – Drawing No. V200 – Revision C – Dated 13/05/2026
2. Any engineering works undertaken (including any vehicle access, servicing and earthworks) shall be carried out in accordance with the standards in the Gore District Council's Subdivision, Land Use and Development Bylaw 2019.

Note: The document is available on Council's website via the following link: Subdivision and Land Development Bylaw 2019.pdf (goredc.govt.nz)

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. The following shall be registered with Land Information New Zealand (CSN 1989408)
 - That Lot 1 and Part Section 31 Block 1x Tuturau SD be held in the same Record of Title
5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall obtain dispensation from The Gore District Council Subdivision and Land Development Bylaw 2019 for the proposed access.

Advice Notes

1. The applicant is advised that should any more intensive land use be proposed through any future resource consent or building consent application, the access will likely require to be upgraded in accordance with the The Gore District Council Subdivision and Land Development Bylaw 2019.

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.

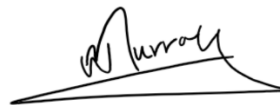
If you have any enquiries please contact the duty planner on phone (03) 209 0330 or email planning@goredc.govt.nz.

Prepared by



Neil Harkin
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Decision made by



Werner Murray
Delegate

Appendix A: Approved Plans

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