

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC23066
<b>Applicant</b>	Allan Thompson
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a two-lot subdivision of the site.
<b>Location</b>	295 Kelvin Road, Upper Charlton
<b>Legal Description</b>	Lot 1 DP 477230
<b>Activity Status</b>	Restricted Discretionary
<b>Decision Date</b>	<b>14 December 2023</b>

### 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 December 2023 under delegated authority pursuant to Section 34A of the RMA.
- 2 Pursuant to Section 104 and Section 104C of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 220 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Werner Murray, on 14 December 2023 under delegated authority pursuant to Section 34A of the RMA.

# 1. THE PROPOSAL

The applicant proposes to subdivide 295 Kelvin Road, Upper Charlton (Lot 1 DP 477230) creating proposed Lots 1 and 2 (Figure 1). The proposed subdivision comprises:

- Lot 1 being 2.04 hectares. Proposed Lot 1 contains an existing dwelling and associated accessory buildings. Lot 1 proposes to retain its access via an existing formed vehicle access and crossing off Kelvin Road.
- Lot 2 being 2.00 hectares. Proposed Lot 2 is vacant. Lot 2 will utilise the existing vehicle access onto Kelvin Road, with Right of Way easement 'A' and 'R' as indicated on the proposed scheme plan.



Figure 1: Proposed Scheme Plan

## Access

The proposed lots will retain the existing formed but unsealed vehicle access onto Kelvin Road. Proposed Lot 2 will utilize the existing vehicle access onto Kelvin Road over Easement 'A' and 'R' over Lot 1.

## Servicing

Lot 1 contains existing service provisions to ground.

The applicant does not propose to establish a dwelling and/or accessory building on proposed Lot 2 at this stage, though it is noted that one residential unit is permitted per rural zoned site. Proposed Lot 2, if utilised for rural residential use, will provide services on site.

The applicant has provided confirmation from PowerNet that there is a standard domestic supply available for Lot 2 from Pole number 119931 (reference emails from Fraser Neil – Operations (Distribution) Project Manager, dated 31 August 2023).

## Easements

The existing easements registered on the Record of Title 660913 will be retained. The Subdivision Scheme Plan includes a Schedule of Proposed Easements, as follows:

### Proposed Easements

- Area 'A' over proposed Lot 1 providing 'Rights of Way' and 'Right to Convey Electricity and Telecommunications' for proposed Lots 1 and 2 and the Benefitted Lot 2 Hereon;
- Area 'R DP 477230' over proposed Lot 1 providing 'Rights of Way' and 'Right to Convey Electricity and Telecommunications' for proposed Lot 2 DP 477230, and the Benefitted Lot 2 Hereon.

### Schedule of Existing Easements to be Retained

- Area 'R DP 477230' over Lot 1 providing 'Right of Way' for Lot 2 DP 477230 and the Benefitted Land EI 981897.2;
- Area 'R DP 477230' over Lot 1 providing 'Right to Convey Electricity and Telecommunications' for Lot 2 DP 477230 and the Benefitted Land EI 981897.2.

## 2. SITE DESCRIPTION

The subject site is legally described as Lot 1 DP 477230, and is currently held in Record of Title 660913, with an area of 4.04ha. The site is located in the Rural Zone under the Operative Gore District Plan and is utilised for rural and rural lifestyle purposes.

The subject site has frontage to Kelvin Road, as shown in Figure 2. It contains an existing dwelling with accessory buildings, all located within the eastern portion of the subject site. The existing dwelling is currently serviced for domestic purposes in terms of water supply, wastewater, stormwater, electricity, and telecommunications. The buildings are accessed from the north-east corner via an existing entrance off Kelvin Road. The remainder of the site is vacant rural land, where the topography is mostly flat and slightly declines towards the east of Kelvin Road.

The Council's Senior Roding Operations Officer, Murray Hasler, notes that the section of Kelvin Road adjacent to the site is classified as a rural local access road, has a chip seal surface, rises gently westwards along the northern boundary of the property to a crest approximately 160m west of the accessway. The east approach to the access rises gently. There is a gentle horizontal curve approximately 130m east of the access. A 100kph speed restriction applies to this road. The estimated approach operating speed is 90kph.

The Gore District Councils mapping system and Environmental Southland flood mapping does not identify the allotments as being subject to any risk of inundation. It identifies the liquefaction risk as 'Negligible' across the site. The site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site. The subject site has been identified as containing 4.04ha of LUC 3 High Class Soils. There are no known natural features and landscapes or historic heritage features on the site. There are no high voltage powerlines located in the immediate vicinity of the allotments.

The site is located approximately 9km to the west of the Gore Township. The immediate surrounding area along Kelvin Road is rural in character and use. It includes medium and large sized farming lots.



Figure 2: Aerial image of subject site (Source: GDC ArcGIS Map)

### 3. ACTIVITY STATUS

#### 3.1 Gore District Plan

The site is zoned Rural in the Gore District Plan and the proposed subdivision 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 of the site, where each lot will exceed 2 hectares in area. Council's discretion is restricted to the following:
  - (i) *suitability of the allotments for activities permitted within the zone in which they are located.*
  - (ii) *suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land;*
  - (iii) *ability to provide services (water, sewage, storm water, power and telecommunications);*
  - (iv) *impacts on the council and other infrastructure services;*
  - (v) *future use of the land and the need to consider any associated resource consents;*
  - (vi) *within residential and rural areas lot size, dimensions and potential for future subdivision of the land;*
  - (vii) *within residential and rural areas the desirability of providing building platforms; and provision of easements*
  - (ix) *impacts on any heritage or archaeological values*
  - (x) *impacts on natural features and landscapes, ecological or cultural values*
  - (xi) *impacts water quality, including groundwater*
  - (xii) *provision of all transport modes, including the movement of pedestrians and cyclists*

Overall, the proposal requires consent as a **Restricted Discretionary** activity.

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

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

### 4. NOTIFICATION ASSESSMENT

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

#### 4.1 Public notification – Section 95A

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

##### Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

### **Step 2 – Public notification is precluded**

Public notification is not precluded as follows:

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

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

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

The following effects must be disregarded:

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

#### *Written Approval/s*

No written approvals have been given.

#### *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, as subdivision requires resource consent, there is no permitted baseline.

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

The subdivision layout is consistent with what the District Plan enables in the Rural Zone.

Proposed Lots 1 and 2 meet the 2ha minimum area specified in the Gore District Plan. Proposed Lot 1 is 2.04ha, while the proposed Lot 2 will be 2.00ha. Proposed Lot 1 can continue to accommodate the existing residential activity, while Lot 2 can accommodate a future residential unit or be maintain for rural use. Any future development is expected to comply with the Performance Standards in the District Plan for the Rural Zone and associated effects on the surrounding environment are considered to be less than minor. Future developments are required to adhere to the District Plan bulk and location standards, specifically boundary rules which ensure the rural character of the zone is maintained.

The application and scheme plan does not include a building platform on proposed Lot 2, however given the size of the lot, a buildable platform on proposed Lot 2 is achievable. Additionally, there are no indications of hazards, it is considered unnecessary to require a fixed area for a building platform in order to reduce effects.

An advice note is recommended which advises the consent holder that any future development on proposed Lots 1 and 2 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 (Bylaw) and the Gore District Plan will be assessed at the building consent stage.

Overall, the proposed lots are considered to be consistent with the anticipated type of subdivision within the Rural Zone. It is considered that the size and configuration of the proposed allotments are appropriate to be used for rural lifestyle or rural purposes and that any adverse effects on the wider environment are considered to be less than minor.

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

The Gore District Councils mapping system identifies the site as free of any flood hazards. Therefore, the subdivision will not exacerbate the risk of inundation upon the wider environment.

The Gore District Council's mapping system identifies the liquefaction risk on the site as 'Negligible'. Therefore, it is considered that the subdivision will not exacerbate the risk of liquefaction upon the wider environment.

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

The nearest high voltage powerlines are located 2.5km to the south-east. The powerlines are an adequate distance away so as to not be affected by the proposed lots.

Overall, any adverse effects, with respect to natural hazards and other hazards, on the wider environment are considered to be less than minor.

#### *Ability to provide services*

There are no Council reticulated services located in proximity of the site. Proposed Lot 1 contains an existing dwelling, and no changes are proposed to the existing servicing arrangements. The applicant confirms that proposed Lot 1 has existing on-site services for domestic purposes in terms of water supply, wastewater, stormwater, telecommunication, and power, and that these on-site services will be retained.

Proposed Lot 2 is over 2ha in area and is intended to be a Rural Lifestyle lot where a dwelling could be constructed in future as a permitted activity. The applicant has demonstrated that services can be provided for a future dwelling on Lot 2. Potable water is proposed to be supplied via onsite rainwater collection. Wastewater disposal will be via an on-site septic tank and a drainage field. Stormwater runoff will be disposed of to the ground. The lot area is appropriate for on-site disposal of wastewater and stormwater runoff that is expected to be fully contained within the proposed boundaries.

The detailed design of these services will be assessed at the time a building consent is submitted to the Council for future development on the lot.

The application has been assessed by Russell Paterson – Building Control Manager, who has raised no issues or concerns regarding the proposed lots (Reference emails from Russell Paterson – GDC Building Control Manager, dated 20 September 2023).

In terms of telecommunication services and power, the proposed vacant lot can be provided with a new power connection. There are existing telecommunications services (low-speed copper only) available within the Kelvin Road corridor. Wireless communications are readily available for future telecommunications. The applicant has provided confirmation from PowerNet that there is a standard domestic supply available for Lot 2 from Pole number 119931 (reference emails from Fraser Neil – Operations (Distribution) Project Manager, dated 31 August 2023).

Overall, proposed Lots 1 and 2 can be feasibly serviced. 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. The proposed subdivision will alter the landscape of the site with the introduction of rural lifestyle residential development in the future on proposed Lot 2. However, given that the District Plan enables rural living on sites greater than 2ha, the effects are anticipated by the Plan.

The subject site is not in close proximity to any water bodies. As stormwater and wastewater disposal for any development will be assessed at the time of building consent. It is considered that any impacts on water quality, including groundwater would be less than minor.

#### *Effects on traffic*

Council's Senior Roading Operations Officer, Murray Hasler has reviewed the application. A summary of his assessment is provided below. The access standards contained in the Gore District Council Subdivision and Land Development Bylaw apply to this situation. As a result of the proposal, the subdivision will increase the number of lots served by the existing access to three. As such, the access will be upgraded in accordance with R09-2 Commercial Access contained in the Bylaw.

The existing gate will be setback 9m from the edge of the existing seal, and the existing gateposts will remain in place. The applicant has demonstrated there is approximately 6m in width between the two

gateposts, ensuring that the upgraded R09-2 access can be established without obstructions. Mr. Hasler has determined that this is acceptable.

The required sight distance of 130m at the existing access location which provides access to proposed Lot 1 and is proposed to provide right of way for proposed Lot 2, is available to the west. Mr Murray assessment found that vegetation in the road berm east of the access restricts the sight distance to 117m. A recommendation has been made that the vegetation in the road verge between the power pole number 02995 and the access be removed to achieve the required sight distance.

The assessment and recommendations of Mr Hasler have been adopted.

Given the nature of the site, the proposed rural lifestyle use, Mr Hasler's assessment, and given the applicants acceptance of the recommended conditions for proposed Lot 2, it is considered that safe access will be provided to serve each lot in the subdivision and any effects on traffic will be less than minor.

#### *Provision of easements*

- A right of way is proposed over the existing access/driveway and the right to convey electricity and telecommunications over proposed Lot 1 to provide access, services, and utilities to Lot 2. This is marked "A" and "R" on the proposed scheme plan.
- Any easements found to be required to secure any rights of way or services and utilities can be included at the time of section 223 certification.

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

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

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

- There are no special circumstances that warrant public notification.

#### **4.2 Limited notification – Section 95B**

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

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

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

##### **Step 2 – Limited notification precluded**

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.

- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

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

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

An assessment in this respect is therefore undertaken as follows:

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

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

95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an “affected party”. No persons have given written approval to the application, however the applicant also owns the property at Lot 2 DP 477230. As such, written approval is inferred, and effects on these properties have been disregarded.

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



**Figure 3: The neighbouring properties identified by blue circles. The green circle indicates land owned by the applicants (Source: Grip Maps)**

### **346 Kelvin Road | 332 Kelvin Road (Lot 4 DP 132) and Lot 5 DP 132**

- 346 Kelvin Road and Lot 5 DP 132 are located on the north side of the subject site, across the Kelvin Road carriageway approximately 150m from the closest neighbouring dwelling and building. The distance is considered adequate buffer distance to mitigate any privacy or overlooking effects.
- The aforementioned properties are 98ha and 71ha rural lots, occupied by associated farm service buildings, rural pastures and areas of mature vegetation. The proposed subdivision will not result in any changes to the existing lawfully established situation experienced by the by persons residing on or working on at Lot 4 DP 132 and Lot 5 DP 132.
- As such the proposed subdivision is not expected to generate adverse visual amenity and character effects towards the north. The proposal is not expected to have any adverse impacts on the established environment or surroundings.

### **Lot 1 DP 13270**

- Lot 1 DP 13270 located to the north-east side of the subject site, where the common boundary runs a length of approximately 14.30m shared between the subject site and Lot 1 DP 13270. The common boundary is occupied existing mature vegetation in the form of tall hedges. This is considered adequate screening to mitigate any visual effects along the internal accessway within the subject site.
- There are no proposed non-compliances pertaining to the boundary shared with Lot 1 DP 13270. As such the proposed subdivision is not expected to generate adverse visual amenity and character effects towards the east.

### **358 Duthie Road (Lot 2 DP 516616)**

- 358 Duthie Road surrounds the south and western boundary and is a 34.95ha site used for rural activities. The common boundary between the subject site and 358 Duthie Road is occupied primarily by mature vegetation in the form of tall hedges. The existing dwelling on the subject site is located approximately 40m from the boundary of 358 Duthie Road. The setback distance and existing vegetation act as suitable screening measures.
- Due to the open rural landscaped views and the separation distance involved, the subdivision creates no adverse visual dominance and character effects.

- There are no proposed non-compliances pertaining to the common boundary shared with 358 Duthie Road. Furthermore, there are no non-compliances created as a result of the proposed internal boundaries. Any adverse effects on the rural character and amenity experienced by persons residing on or working on 358 Duthie Road is considered to be less than minor.

#### *Conclusions: Effects on Persons*

Overall, it is considered that the proposed subdivision will not create lots or future uses that are out of character for the area or detract from the existing amenity values. Any future development on proposed Lot 2 would be required to adhere to the District Plan bulk and location standards, specifically boundary rules which will ensure that any effects on the neighbouring properties are acceptable. 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.

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

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

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

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

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

## **6. SECTION 104 ASSESSMENT**

### **6.1 Matters for consideration**

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

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

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

- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

## 6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s220 of the RMA as required to avoid, remedy, or mitigate adverse effects.

## 6.3 Relevant Provisions

### District Plan

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

#### *Chapter 8 - Subdivision of Land*

##### *Objectives*

- (1) *To facilitate the orderly subdivision and development of land.*
- (2) *To ensure that the size and shape of new allotments created, and the design standards for access and infrastructure, is suitable and appropriate for the location and future use of the land.*
- (3) *To ensure that developers pay all reasonable costs associated with the subdivision and subsequent development of land.*
- (5) *To ensure land development and servicing is undertaken to Council's standards.*
- (7) *To ensure that land subdivision results in allotments that are suitable for activities anticipated by the zone in which they are located.*
- (8) *Avoid adverse effects on water quality, including groundwater, from the development of subdivided land.*

##### *Policies*

- (1) *Control the subdivision of all land.*
- (2) *Avoid the adverse effects of subdivision on the functioning of existing services, infrastructure and roading.*
- (3) *Require the works associated with subdivision to be carried out in conformity with Council's standards.*
- (5) *Avoid any off-site effects of development of subdivided land.*
- (9) *Require land development to be undertaken in compliance with the Gore District Council Subdivision and Land Development Bylaw 2011.*
- (10) *Have regard to the potential for the land subject to any subdivision consent, and other land in the locality to be further subdivided in the future.*
- (13) *Have regard to the potential impacts arising from the subdivision and future use of land on water quality, including groundwater.*

The proposed subdivision is consistent with the objectives and policies in Chapter 8. The size and layout of the allotments are practical and appropriate for the Rural Zone. Proposed Lot 1 can accommodate an existing rural/ rural residential activity, while proposed Lot 2 can accommodate a future rural/ rural residential activity. Overall, it is considered that the subdivision is appropriate and will not lead to adverse effects on the amenity and character of the surrounding area. Each proposed lot can also be

serviced appropriately and transport conditions providing suitable access in compliance with GDC's Subdivision and Land Development Bylaw 2011.

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 (RPS), specifically the provisions contained in Chapter 5 (Rural Land/Soils). Objective RURAL.1 seeks to achieve sustainable use of Southlands rural land resources, in respect of a number of matters including (B) subdivision, use and development activities; (d) the use of soil resources; and (f) on-site wastewater systems. Policy RURAL.2 seeks to manage subdivision and land development activities in rural areas of Southland in a way that maintains or enhances rural amenity values and character.

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

The proposed subdivision will allow one additional lot to be created, which will enable the opportunity for proposed Lot 2 to be used for rural lifestyle purposes. The site comprises Class 3 soils. These soils can continue to provide for a small-scale rural activity following the subdivision. Outside of this resource consent, proposed Lot 2 can be provided with an on-site wastewater system at the time of development. Overall, it is considered that the proposal is aligned with the relevant objectives and policies in the RPS.

### **National Policy Statement – Highly Productive Land 2022**

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

## **6.4 Other Matters**

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

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

## **7. SECTION 106 REQUIREMENT FOR SUBDIVISION**

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of -

- (a) the likelihood of natural hazards occurring (whether individually or in combination); and

- (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
- (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).

In this case, the site is not subject to any known natural hazard risk. Proposed Lots 1 and 2 will be provided with an existing legal and physical access that will be upgraded in accordance with R09-2 Commercial Access contained in the Bylaw.

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.

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

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

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

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

## 9. DECISION ON RESOURCE CONSENT

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

### Consent Conditions

#### General

1. The subdivision must be undertaken in general accordance with the application made to the Council, reference SC23066 and the following plan:
  - *Clark Fortune McDonald & Assoc., Proposed Subdivision of Lot 1 DP 477230 [RT 660913], File: 16021, Rev Date: 22-03-2023*

This plan is attached at Appendix A.

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 as necessary.

3. The consent holder must meet the costs for the preparation, review, and registration of any easement instrument(s) on the relevant Records of Title.

#### **Access**

4. Prior to the certification of the subdivision, pursuant to section 224c, the consent holder, shall, to the satisfaction of the Chief Executive of the Gore District Council:
  - a) upgrade the existing vehicle access, in accordance with the R09-2 Commercial Access standard in the Gore District Council Subdivision and Land Development Bylaw 2019; and
  - b) remove the vegetation in the road verge between power pole #02995 and the access to achieve the required sight distance; and
  - c) Remove or setback the existing gate 9m from the edge of the existing seal.

*Note: the gate posts may stay in place*

#### **Consent Notices**

5. 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 Record of Title for Lot 2 to record that:
  - a. At the time of lodging a building consent for a dwelling, a rainwater collection system must be verified as being potable; this shall include provision for UV filters or UV treatment or alternative treatment provision and shall be submitted with the building consent application(s).
  - b. At the time of lodging a building consent for a dwelling, the lot is to have a specifically researched, designed, and verified system for wastewater and stormwater disposal.
  - c. At the time of lodging a building consent for a dwelling, 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 or electricity connection was not provided and either a fixed-line telecommunication connection or an alternative service (wireless broadband or mobile data); and an electricity connection needs to be installed at a cost to the owner at the time that the connection is applied for.

#### **Advice Notes**

1. Any future development on Lots 1 and 2 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 and the Gore District Plan.
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.

## Administrative Matters

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

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

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

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

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

Prepared by



Jo Skuse  
**Consultant Planner**

Decision made by



Werner Murray  
**Delegate**

Appendix A – Approved Plan

# APPENDIX A – APPROVED PLAN

