

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC 23041
<b>Applicant</b>	Bruno and Harley Ross
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a subdivision of two existing titles to create 12 rural lots and 1 access lot over four stages
<b>Location</b>	331 Glendhu Road, RD 4
<b>Legal Descriptions</b>	Lot 68 Deposited Plan 134 and Lot 1 Deposited Plan 3444 held in record of title SL152/17  Part Lot 67 Deposited Plan 134 held in record of title SL10D/815
<b>Activity Status</b>	Restricted Discretionary
<b>Decision Date</b>	20 December 2023

### SUMMARY OF DECISIONS

- 1 Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**), the application will be processed on a **non-notified** basis given the findings of Section 5 of the Section 95A and 95B report. This decision is made by Werner Murray, on 20 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 20 December 2023 under delegated authority pursuant to Section 34A of the RMA.

## 1. THE PROPOSAL

The Applicant proposes to undertake a subdivision of two existing titles to create 12 rural lots and 1 access lot over four stages as follows:

- Lots 1 to 3 in stage 1,
- Lots 4 to 7 and 10 in stage 2,
- Lots 8 and 9 in stage 3, and
- Lots 7 and 11 to 13 in stage 4.

Lot 1	2.01 hectares: Lot 1 contains an existing farm accessory building near the road frontage but is otherwise vacant and will be used for rural lifestyle purposes.
Lot 2	2.02 hectares: Lot 2 comprises vacant land and will be used for rural lifestyle purposes.
Lot 3	78.27 hectares: Lot 3 comprises vacant land and will be used for rural purposes. Lot 3 and Lot 10 will be amalgamated together to have a total area of 78.33 hectares.
Lot 4	2.0 hectares: Lot 4 comprises vacant land and will be used for rural lifestyle purposes.
Lot 5	2.06 hectares: Lot 5 comprises vacant land and will be used for rural lifestyle purposes.
Lot 6	2.01 hectares: Lot 6 comprises vacant land and will be used for rural lifestyle purposes.
Lot 7	90.53 hectares: Lot 7 contains an existing farm accessory building near the road frontage but is otherwise vacant and will be used for rural purposes. Lot 7 and Lot 9 will be amalgamated together to have a combined area of 99.39ha.
Lot 8	8.43 hectares: Lot 8 is vacant and will be used for rural lifestyle purposes.
Lot 9	8.86 hectares: Lot 9 is vacant and will be used for rural purposes. Lot 7 and Lot 9 will be amalgamated together.
Lot 10	600m <sup>2</sup> : Lot 10 comprises vacant land and will be used as a farm access lot by Lot 3. Lot 3 and Lot 10 will be amalgamated together.  In the event that Stage 2 is completed before Stage 1, Lot 10 will be amalgamated with Pt Lot 67 DP 134 until such a time that Stage 1 is completed.
Lot 11	2.10 hectares: Lot 11 contains an existing farm accessory building and will be used for rural lifestyle purposes.
Lot 12	2.18 hectares: Lot 12 comprises vacant land and will be used for rural lifestyle purposes.
Lot 13	2.02 hectares: Lot 13 comprises vacant land and will be used for rural lifestyle purposes.

As each of the four stages could be completed independently of each other as separate stages, the Applicant proposes that the four stages of the subdivision is able to be completed in any order.

Proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 are anticipated to have a rural-lifestyle land use in the future. The Applicant does not propose to establish a new dwelling on these lots at this stage, though it is noted that one residential unit is permitted per rural zoned site.

Proposed Lots 1, 2, 3 and 11 each have an existing vehicle crossing to McGill Road and proposed Lot 8 has an existing vehicle crossing to Terrace Road. It is proposed to upgrade these vehicle crossings to meet the requirements of Diagram R09-1 in the Gore District Council Subdivision and Land Development Bylaw (the Bylaw). The upgrade of the vehicle crossing for proposed Access Lot 10 can occur at the time of development on Lot 3.

Proposed Lots 4, 5, 6, 12 and 13 will each be provided with a new vehicle crossing to McGill Road, which will need to be constructed to meet the requirements of Diagram R09-1 in the Bylaw.

Proposed Lots 7 and 9 will be amalgamated together, so that access for Lot 9 is obtained off McGill Road through Lot 7. Proposed Lot 7 has two existing vehicle crossings and an upgrade can occur at the time of development on Lot 7 or Lot 9.

In terms of the services for Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13, potable water is proposed to be supplied via onsite rainwater collection. Wastewater disposal will be via on-site septic tanks and drainage fields. Stormwater runoff will be disposed of to the ground and 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 individual lots.

As proposed Lots 3, 7 and 9 will continue to be used for pastoral farming purposes, these lots will not be provided with a potable water supply, nor domestic wastewater disposal and stormwater management unless a dwelling is established.

In terms of telecommunication services, all of the proposed lots will use wireless rural broadband services. The Applicant has provided confirmation that Vodafone (One NZ) and Spark are able to provide the lots with wireless rural broadband.

In terms of an electricity supply, the Applicant has provided confirmation from PowerNet (via emails dated 23 June and 1 August 2023) that an electricity supply can be provided to proposed Lots 1 to 6 and Lots 12 and 13 from a 11 kV Line running along McGill Road. An electricity supply can be provided to proposed Lot 8 from Terrace Road, subject to the construction of approximately 1km of 11KV line (overhead or underground). Lots 7 and 11 have existing electricity connections to the farm sheds on those lots that will be retained.

There are existing interests registered on the two records of title, which will drop down onto the new titles for the proposed lots as follows:

- Easement Instrument 11754877.1: The existing right to take and convey water easement A DP 549306 will be retained over proposed Lots 4 to 7 and 10 and will be split up into 'A' to 'E', where it passes through each of these lots.
- Transfer 256510.2: The existing sewage (effluent field) easement E DP 14758 will be retained over proposed Lot 3.

- Easement Instrument 11754877.1: The existing right to convey water easement B DP 549306 will be retained over proposed Lot 3.

The above are shown on the Schedule / Memorandum of Easements included with the application. Any additional easements that are found to be required can be included as part of the s223 certification.

The proposed scheme plans and schedule / memorandum of easements supplied with the application are included as Appendix A.

## 2. SITE DESCRIPTION

The subject site is comprised of two titles, which are legally described as:

- Lot 1 DP 3444, being 17.2902 hectares in area and held in Record of Title SL152/17.
- Part Lot 68 DP 134, being 102.9642 hectares in area and held in Record of Title SL152/17.
- Part Lot 67 DP 134, being 82.3014 hectares in area and held in Record of Title SL10D/815.

The site is shown in Figure 1. The three allotments have legal frontage onto McGill Road to the west, Barron Road to the south and Terrace Road to the east. The site is currently served by several existing vehicle accesses to these roads.



Figure 1: Subject site in red (source: GoreDC Maps)

The existing land use of the site is pastoral farming. It has a flat to gently rolling topography. The site contains several accessory farm buildings located near the McGill Road frontage.

The site is located in the Rural zone, as shown on Planning Map DST 28 of the District Plan.

The Gore District Council's mapping system does not identify the site as being subject to any risk of inundation. It identifies the liquefaction risk across the site as 'negligible'.

Transpower lines that form part of the National Grid traverse across the access leg of Lot 1 DP 3444.

The site comprises a combination of Class 2, 3 and 6 soils.

There are no known natural features and landscapes or historic heritage features on the site.

The site is not identified in Environment Southland's Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site.

The Council's Roading Asset Manager, Murray Hasler, notes that McGill Road is undulating and has four horizontal curves, some of which are relatively sharp. McGill Road is an unsealed, low volume, local road. Barron Road is an unsealed, low volume, local road which intersects with McGill Road at the south-west corner of the site. It descends a windy hill to intersect with Terrace Road. The section of Terrace Road which has a boundary with the site is relatively flat and straight. Terrace Road is an unsealed, local access road. A 100kph speed restriction applies to all these sections of road.

The site is located approximately 3km to the north-west of Mataura and approximately 3km from the boundary with Southland District to the south-west. The immediate surrounding area is rural in character and use and includes a combination of medium and large sized farming lots and a limited number of rural lifestyle lots.

### 3. ACTIVITY STATUS

#### 3.1 Operative 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 subdivision of two existing titles to create 12 rural lots and 1 access lot, where each lot will exceed 2 hectares in area.

*Note: the resultant size of Lot 10 (the access lot), when amalgamated with Lot 3, will exceed 2 hectares.*

The Council's discretion is restricted to the following matters:

- suitability of the allotments for activities permitted within the zone in which they are located.*
- suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land;*
- ability to provide services (water, sewage, storm water, power and telecommunications);*
- impacts on the council and other infrastructure services;*
- future use of the land and the need to consider any associated resource consents;*
- 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 Proposed Gore District Plan

The site is proposed to be zoned as General Rural within the Proposed District Plan. There are no rules with immediate legal effect that impact this application.

### 3.3 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 identified as an actual or potentially contaminated site and 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 all subdivision requires a resource consent, there is no permitted baseline.

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

The proposed subdivision layout is consistent with what the District Plan enables in the Rural zone. Proposed Lots 1 to 9 and 11 to 13 all meet the 2 hectare minimum area specified in the Gore District Plan.

Proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 will have the opportunity for a new dwelling to be developed. Due to the size of the lots meeting the 2 hectare minimum area, any future development is expected to comply with the Performance Standards in the District Plan for the Rural zone including the yards, daylight admission and height standards. There are no other resource consents that are needed to be considered with this subdivision.

The application and scheme plan does not show a fixed building platform location on proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13. However, given the size of the lots and no indication of any hazards, it is considered unnecessary to require a fixed area for a building platform in order to reduce effects.

Proposed Lots 3, 7 (and 9) remains sufficient in size to enable the continued pastoral farming use.

An advice note is recommended to advise the Applicant that any future development on Lots 1 to 9 and 11 to 13 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 under the building consent.



Proposed Lots 1, 7 and 11 contain existing accessory farm buildings that comply with the required yard setbacks in Rule 4.7A.1(2). The Council's Building Control Manager, Mr Russell Patterson, confirms that the existing buildings do not appear to be affected by this subdivision, as far as meeting minimum fire safety setbacks from new boundaries.

Proposed Lot 10 is 600m<sup>2</sup> in area and will be an Access Lot that serves proposed Lot 3. Proposed Lot 9 will be amalgamated with proposed Lot 3, upon completion of Stage 2 of the subdivision, to have a total area of 78.33 hectares. It will therefore not detract from the rural character of the environment.

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, shape 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 will be less than minor.

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

The Gore District Council's 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.

Transpower lines that form part of the National Grid currently traverse across the access leg of Lot 1 DP 3444. Following the subdivision, these lines will traverse across the access leg of proposed Lot 8. The common boundary for Lot 8 / Lot 9 is located over 500m away from the lines. Therefore, it is considered that the subdivision will not adversely affect the operation of the lines, nor pose any risks to the wider environment.

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

#### *Ability to provide services*

There are no Council reticulated services within McGill Road, Barron Road and Terrace Road. Each of the proposed rural lifestyle lots (Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13) will need to be serviced onsite for potable water, stormwater and wastewater and this will be assessed at the time a building consent is lodged with the Council for future development on the individual lots. The details of the requirements for on-site services will be included as consent notice conditions, which have been accepted by the Applicant.

In terms of telecommunication services, proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 will use wireless rural broadband services. The Applicant has provided confirmation that Vodafone (One NZ) and Spark are able to provide the lots with wireless rural broadband. This is acceptable given that wireless services are becoming the norm and a preferential option for rural sites.

As proposed Lots 3, 7 and 9 will continue to be used for pastoral farming purposes, these lots will not be provided with a potable water supply, domestic wastewater disposal and stormwater management, unless a dwelling is established. Stormwater runoff from the existing accessory farm buildings will be disposed of to the ground and is expected to be fully contained within the proposed boundaries.

In terms of an electricity supply, the Applicant has provided confirmation from PowerNet (via emails dated 23 June and 1 August 2023) that an electricity supply can be provided to proposed Lots 1 to 6 and Lots 12 and 13 from a 11 kV Line running along McGill Road. An electricity supply can be provided to proposed Lot 8 from Terrace Road, subject to the construction of approximately 1km of 11KV line (overhead or underground). Lots 7 and 11 have existing electricity connections to the farm sheds on those lots that will be retained.

Overall, proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 can be feasibly serviced at the time of development and Lots 3, 7 and 9 will not be serviced for domestic purposes. 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 subdivision will alter the landscape of the site with the introduction of residential development in the future on proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13. However, given that the District Plan enables rural living on sites greater than 2 hectares, the effects are anticipated by the Plan.

The subject site is not in close proximity to any water bodies. As 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*

The Council's Senior Roding Asset Manager, 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.

In stage 1, proposed Lots 1, 2 and 3 each have an existing vehicle crossing, which will need to be upgraded to meet the requirements of Diagram R09-1 in the Bylaw. The upgrade of the vehicle crossing for proposed Lot 3 can occur at the time of development. The sight distances at the existing vehicle crossing locations meets the requirements of the Bylaw.

In stage 2, proposed Lots 4, 5 and 6 will each be provided with a new vehicle crossing to McGill Road, which will need to be constructed to meet the requirements of Diagram R09-1 in the Bylaw. Proposed Lot 7 has an existing vehicle crossing and an upgrade can occur at the time of development on Lot 7 or Lot 9. The upgrade of the vehicle crossing for proposed Access Lot 10 can occur at the time of development on Lot 3. The sight distances at the existing and proposed vehicle crossing locations meet the requirements of the Bylaw.

In stage 3, proposed Lot 8 is provided with an existing vehicle crossing and access leg to Terrace Road. The upgrade of the vehicle crossing for proposed Lot 8 can occur at the time of development. The sight distances at the existing vehicle crossing location meets the requirements of the Bylaw. Proposed Lots 7 and 9 will be amalgamated together, so that access for Lot 9 is obtained off McGill Road through Lot 7.

In stage 4, proposed Lot 11 has an existing vehicle crossing, which will need to be upgraded to meet the requirements of Diagram R09-1 in the Bylaw. Proposed Lots 12 and 13 will each be provided with a new vehicle crossing to McGill Road, which will need to be constructed to meet the requirements of Diagram R09-1 in the Bylaw. The sight distances at the existing and proposed vehicle crossing locations meets the requirements of the Bylaw.

The assessment of Mr Hasler has been adopted. It is considered that safe accesses will be provided to serve each lot in the subdivision and any effects on traffic will be less than minor.

It is further noted that the proposed subdivision will significantly increase the traffic volume on McGill Road from its current volume of 30 vehicles per day to potentially 102 vehicles per day, based on 9 vehicle movements per residence and 8 new lots proposed on McGill Road.

Mr Hasler anticipates that the future residents of lots on which homes are constructed close to the McGill Road will demand the Council mitigate dust from McGill Road. Mr. Hasler has recommended placing a consent notice on the titles of lots near McGill Road, requiring owners planning residential construction within 100m of the road, to install a 100m dust suppression seal along McGill Road at their cost. This is to be done in accordance with Council's Dust Suppression Policy. This condition has been accepted by the Applicant as forming part of the proposal.

Subject to the above condition , it is considered that any effects on the safe and efficient operation of McGill Road will be less than minor.

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

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed 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.

### *Assessment: Effects on Persons*

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.

### *Neighbouring Properties*

The adjacent persons who are assessed below are all of the owners of the properties that share a common boundary with the subject site and those that are located opposite the site.

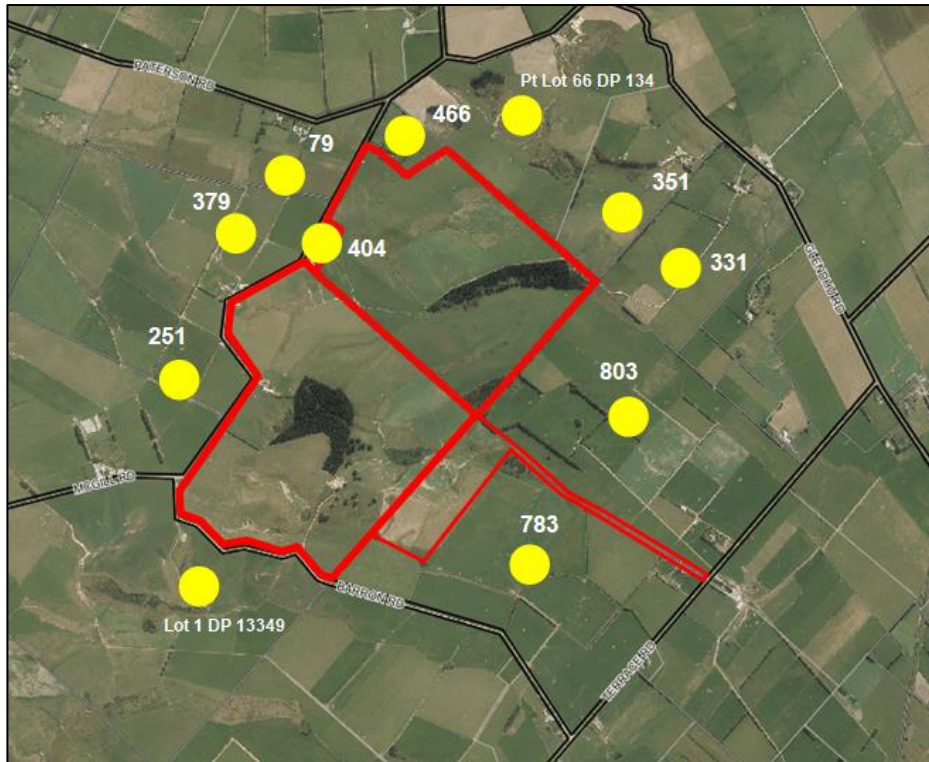


Figure 2: The adjacent properties shown by yellow circles (source: GoreDC Maps)

The adjoining properties on the same side of McGill Road include 404 McGill Road (Lot 1 DP13517), and 466 McGill Road (Lot 1 DP 11843), which are used for rural lifestyle purposes.

The adjoining properties on the south-western side of Glendhu Road include Pt Lot 66 DP 134; 351 Glendhu Road (Lot 1 DP 6394) and 331 Glendhu Road (Lot 1 DP 1179), which are used for rural purposes and which each contain a dwelling near the road frontage.

The adjoining properties on the north-western side of Terrace Road include 803 Terrace Road (Lot 64 DP 134), 783 Terrace Road (Lot 63 DP 134), which are used for rural purposes and which each contain a dwelling near the road frontage.

The adjacent properties on the opposite side of McGill Road include 79 Paterson Road (Lot 1 DP 5845), 379 McGill Road (Pt Lot 7 DP 174) and 251 McGill Road (Lot 6 DP 174), which are used for rural purposes and which each contain a dwelling near the road frontage.

The adjacent property on the opposite side of Barron Road includes Lot 1 DP 13349, which is used for rural purposes.

The subdivision meets the standard for minimum lot size for the Rural zone. The District Plan has therefore anticipated the adverse effects associated with future development of this density on such lots and deemed it appropriate. Proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 are of a size and shape that can accommodate a future residential unit, while proposed 3 and 7 & 9 will be used for pastoral farming activities. It is considered that the effects associated with any future development on any adjacent persons will be less than minor. Future developments are required to adhere to the District Plan bulk and location standards, specifically boundary rules which ensure effects on neighbouring properties are acceptable.

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

Proposed Lot 10 is 600m<sup>2</sup> in area and will be an Access Lot that serves proposed Lot 3. Proposed Lot 10 will be amalgamated with proposed Lot 3, upon completion of Stage 2 of the subdivision, to have a total area of 78.33 hectares. The size of the lot is not considered to appear discernible, nor will it detract from the rural character of the environment, as viewed by any of the adjacent persons.

The proposed subdivision would maintain the safe and efficient function of the Council's roading network. The proposed lots will be provided with either an upgraded vehicle crossing as part of the subdivision or at the time of future development, or will be provided with a new vehicle crossing as part of the subdivision. In order to mitigate dust effects from McGill Road, the Applicant has also agreed to a consent notice to be registered on the titles of proposed Lots 1, 2, 4, 5, 6, 11, 12 and 13 to require the construction of a 100m long section of dust suppression seal at the owner's cost, in the event that a residential dwelling is constructed within 100m of McGill Road, and to be maintained when required by the owners of the dwellings. Given the rural nature of the surrounding area, any effects related to traffic generation and roading are considered to be less than minor on any person.

Services for proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 can feasibly be accommodated on the site at the time of development, with rainwater catchment and on-site tanks for potable water. Stormwater and wastewater can be managed within the boundaries of the individual lots. An electricity connection and wireless telecommunications connection can also be provided to these lots. The effects of servicing will therefore be less than minor for any adjacent person.

As proposed Lots 3, 7 and 9 will continue to be used for pastoral farming purposes, these lots will not be provided with domestic servicing, unless a dwelling is established in the future.

Natural hazards and other hazards will not be exacerbated by the proposal. Proposed Lot 8 will not be adversely affected by the existing Transpower lines, which traverse across the access leg. There will be no discernible effects relating to hazards upon any adjacent person.

Overall, it is considered that the proposed subdivision will not create lots or future uses that will be out of character for the area or detract from the existing amenity values. Therefore, the adverse effects are considered to be less than minor and 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 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

The 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 Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 can accommodate a future rural residential activity, while proposed Lot 3, 7 and 9 will continue to be used for rural productive activities. Proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 can also be serviced appropriately at the time of development and provided with suitable access via an upgraded vehicle crossing or a new vehicle crossing to McGill Road or Terrace Road. Proposed Lots 3, 7 and 9 have existing accesses that can be upgraded at the time of development. 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.

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

**Proposed District Plan**

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 26 October 2023. 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 proposal is consistent with the relevant objectives and policies in the Southland Regional Policy Statement, specifically the provisions contained in Chapter 5 (Rural land/soils). Objective RURAL.1 seeks to achieve sustainable use of Southland's rural land resource, in respect of a number of matters including (b) subdivision, use and development activities; (d) the use of soil resources; and (f) on-site wastewater systems. Policy RURAL.2 seeks to manage subdivision and land development activities in rural areas of Southland in a way that maintains or enhances rural amenity values and character.

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



The proposed subdivision will allow 12 rural lots and one access lot to be created from two existing titles, which will enable the opportunity for nine of those lots to be developed with a residential unit. The site comprises a combination of Class 2, 3 and 6 soils. These soils can continue to provide for a small-scale rural activity following the subdivision. Proposed Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13 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 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. 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, 2, 4, 5, 6, 8, 11, 12 and 13 can be provided with suitable access via an upgraded vehicle crossing or a new vehicle crossing to McGill Road or Terrace Road. Proposed Lots 3, 7 and 9 have existing accesses that can be upgraded at the time of development.

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, **subdivision** consent is **granted** to undertake a subdivision of two existing titles to create 12 rural lots and 1 access lot over four stages 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 17 July 2023 and the following plans:
  - Overview Sheet, 'Proposed Subdivision of Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17] & Pt Lot 69 DP 134 [SL10D/815]', File: 15139, Rev. A, prepared by Clark Fortune McDonald and Associates, dated 18 July 2023.
  - Detail Sheet 1, 'Proposed Subdivision of Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17] & Pt Lot 69 DP 134 [SL10D/815]', File: 15139, Rev. A, prepared by Clark Fortune McDonald and Associates, dated 18 July 2023.
  - Detail Sheet 2, 'Proposed Subdivision of Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17] & Pt Lot 69 DP 134 [SL10D/815]', File: 15139, Rev. A, prepared by Clark Fortune McDonald and Associates, dated 18 July 2023.
  - Detail Sheet 3, 'Proposed Subdivision of Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17] & Pt Lot 69 DP 134 [SL10D/815]', File: 15139, Rev. A, prepared by Clark Fortune McDonald and Associates, dated 18 July 2023.

These plans are attached as Appendix A.

2. Prior to the Council signing the Survey Plan for each stage of the subdivision 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.

### Staging

4. The subdivision can be staged in any order, subject to the relevant conditions of consent being met for the lots created by that stage.
  - Stage 1: Lots 1 to 3,
  - Stage 2: Lots 4 to 7 and 10,
  - Stage 3: Lots 8 and 9, and
  - Stage 4: Lots 7 and 11 to 13.

### Amalgamation conditions

5. That Lots 3 & 10 hereon be held together and one Record of Title be issued to include both of those parcels (LINZ Request 1865113).
6. That Lots 7 & 9 hereon be held together and one Record of Title be issued to include both of those parcels (LINZ Request 1865113).

### Duration of Consent

7. This consent shall expire in 10 years from the date it was granted.

### Vehicle Access

8. Prior to certification of Stage 1 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the existing vehicle access on McGill Road to serve Lots 1 and 2, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
9. Prior to certification of Stage 2 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, construct a vehicle access on McGill Road to serve Lots 4, 5 and 6, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
10. Prior to certification of Stage 4 of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, construct a vehicle access on McGill Road to serve Lots 12 and 13, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
11. The consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the existing vehicle access on McGill Road to: Lot 3 or Lot 10 at the time of development on Lot 3; Lot 7 at the time of development on Lot 7 or Lot 9, and Lot 11 at the time of development, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
12. The consent holder shall, to the satisfaction of the Chief Executive of the Gore District Council,

upgrade the existing vehicle access on Terrace Road to Lot 8 at the time of development, in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.

### Consent Notices

13. Prior to the certification of each stage 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 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 was not provided to the lot, and either a fixed-line telecommunication connection or an alternative service (wireless broadband) needs to be installed at a cost to the owner at the time that the connection is applied for.

The consent notice shall be registered against the Records of Title for Lots 1, 2, 4, 5, 6, 8, 11, 12 and 13.

- e) At the time of this subdivision, an electricity connection was not provided to the lot and should an electricity connection / supply be required, this needs to be installed at a cost to the owner at the time that the connection is applied for.

The consent notice shall be registered against the Records of Title for Lots 1, 2, 4, 5, 6, 8, 12 and 13.

- f) Prior to the issue of the Building Consent Certificate of Completion for the construction of a residential dwelling within 100m of McGill Road, the owner shall arrange for the construction of a 100m long section of dust suppression seal, in order to mitigate dust effects from McGill Road, and this shall be maintained from time to time by the owner. The dust suppression seal shall match the type of seal the Council constructs under its Dust Suppression Policy, however the owner shall be responsible for the whole cost of constructing the dust suppression seal.

The consent notice shall be registered against the Records of Title for Lots 1, 2, 4, 5, 6, 11, 12 and 13.

### Advice Notes

1. Any future development on Lots 1 to 9 and 11 to 13 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 and the Gore District Plan and will be assessed at the building consent stage.
2. Any work carried out on the legal roadway requires the prior approval of the Council and the consent holder must consult with the Council's Roading Department to ensure the appropriate processes are being followed and the work is being carried out to the correct standard. The work itself must be undertaken by a Council approved contractor.
3. At the time of this subdivision, a potable water supply and electricity supply was not provided to Lots 3, 7 (and 9) on the basis that these lots are intended to be used for rural purposes. Should these utilities be required in the future, these will need to be installed at a cost to the owner.

### 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 5 years from the date of this decision subject to the provisions of section 125 of the RMA.

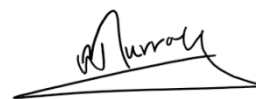
If you have any enquiries, please contact the duty planner on phone (03) 209 0330 or email [planning@goredc.govt.nz](mailto:planning@goredc.govt.nz).

Prepared by



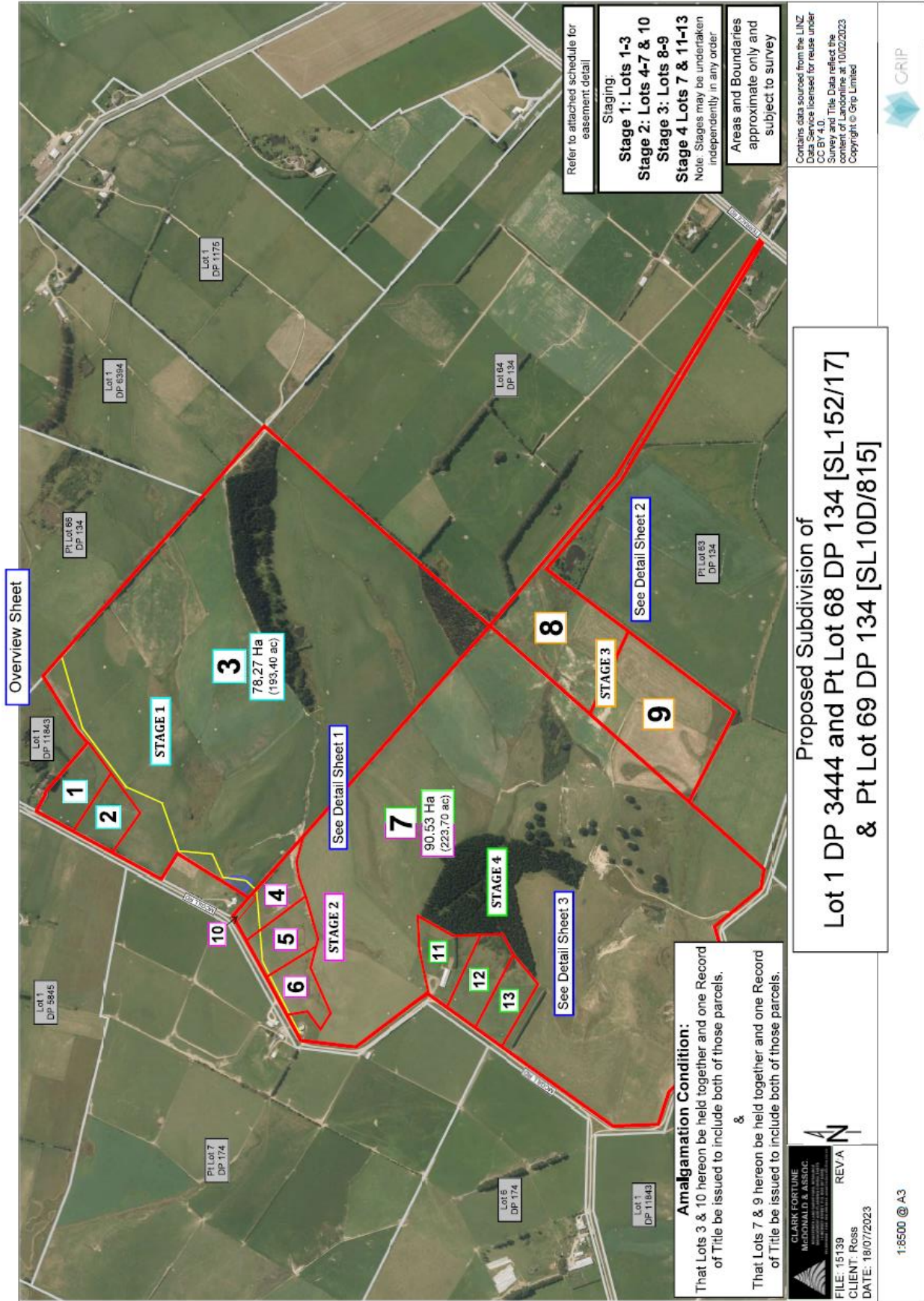
Penny Weng  
**Consultant Planner**

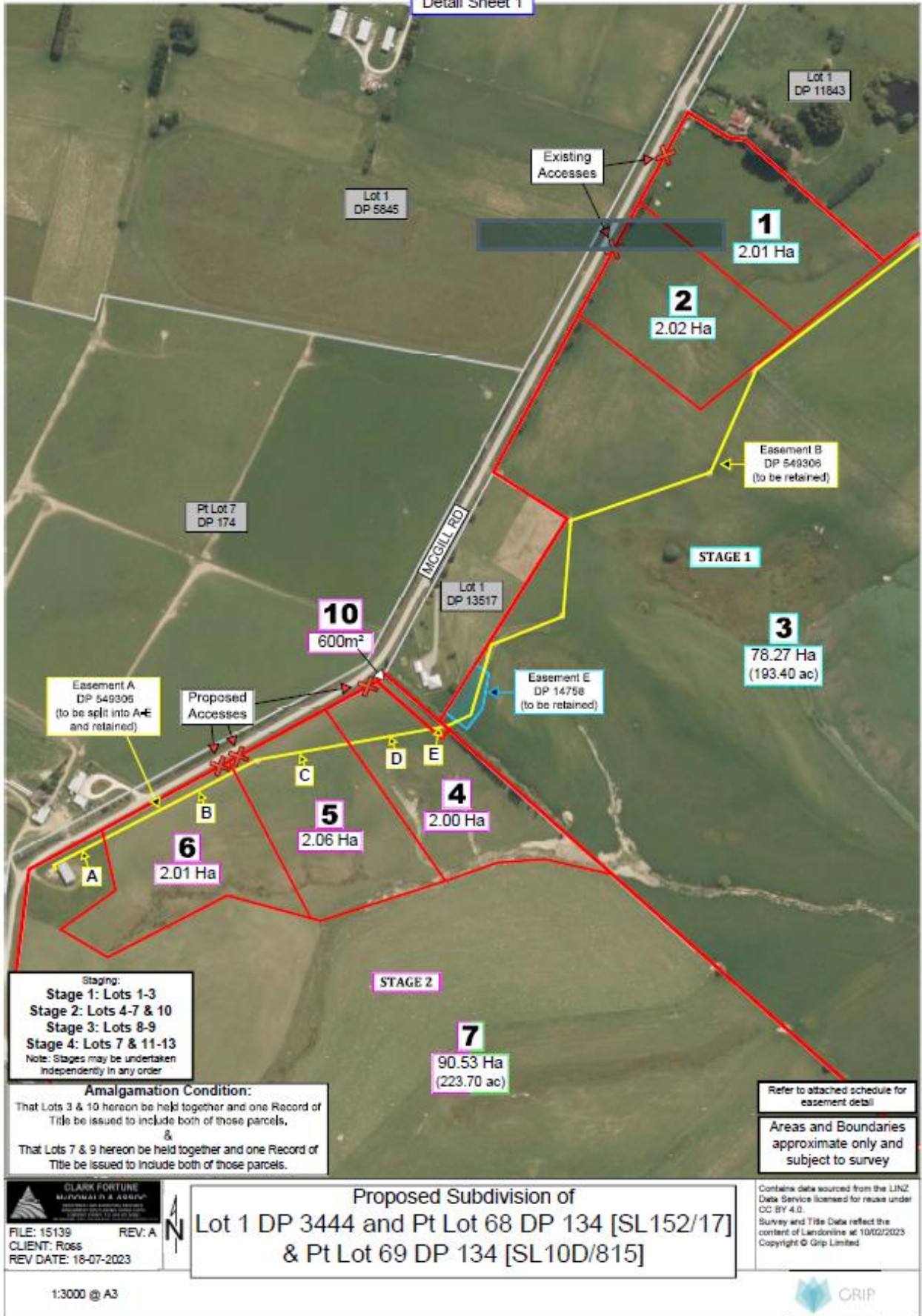
Decision made by



Werner Murray  
**Delegate**

# APPENDIX A – APPROVED PLANS





Staging:  
 Stage 1: Lots 1-3  
 Stage 2: Lots 4-7 & 10  
 Stage 3: Lots 8-9  
 Stage 4: Lots 7 & 11-13  
 Note: Stages may be undertaken independently in any order

**Amalgamation Condition:**  
 That Lots 3 & 10 hereon be held together and one Record of Title be issued to include both of those parcels,  
 &  
 That Lots 7 & 9 hereon be held together and one Record of Title be issued to include both of those parcels.

Refer to attached schedule for easement detail

Areas and Boundaries approximate only and subject to survey

**CLARK FORTUNE**  
 SURVEYORS & ASSOCIATES  
 15139  
 CLIENT: Ross  
 REV DATE: 18-07-2023

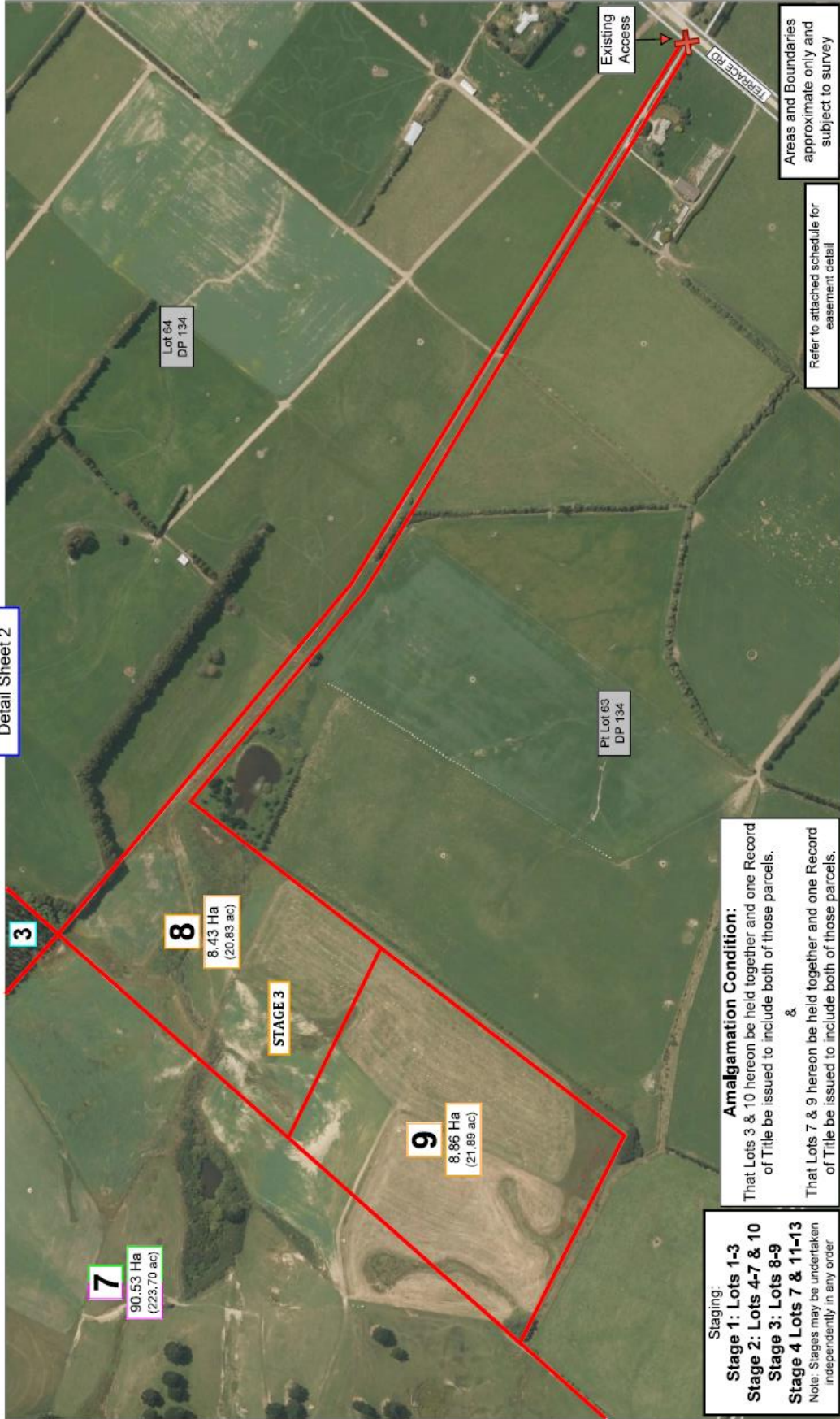
Proposed Subdivision of  
 Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17]  
 & Pt Lot 69 DP 134 [SL10D/815]

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Detail Sheet 2



Areas and Boundaries approximate only and subject to survey

Refer to attached schedule for easement detail

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**Amalgamation Condition:**  
 That Lots 3 & 10 hereon be held together and one Record of Title be issued to include both of those parcels.  
 &  
 That Lots 7 & 9 hereon be held together and one Record of Title be issued to include both of those parcels.

Staging:  
**Stage 1: Lots 1-3**  
**Stage 2: Lots 4-7 & 10**  
**Stage 3: Lots 8-9**  
**Stage 4: Lots 7 & 11-13**  
 Note: Stages may be undertaken independently in any order

Proposed Subdivision of  
**Lot 1 DP 3444 and Pt Lot 68 DP 134 [SL152/17]**  
**& Pt Lot 69 DP 134 [SL10D/815]**

CLARK FORTUNE  
 MEDDONALD & ASSOC.  
 FILE: 15139  
 CLIENT: Ross  
 DATE: 18/07/2023  
 REVA



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**7**  
90.53 Ha  
(223.70 ac)

STAGE 4

**11**  
2.10 Ha

**12**  
2.18 Ha

**13**  
2.02 Ha

Pt Lot 7  
DP 174

Lot 8  
DP 174

MCGILL RD

Staging:  
Stage 1: Lots 1-3  
Stage 2: Lots 4-7 & 10  
Stage 3: Lots 8-9  
Stage 4: Lots 7 & 11-13  
Note: Stages may be undertaken  
independently in any order

**Amalgamation Condition:**  
That Lots 3 & 10 hereon be held together and one Record  
of Title be issued to include both of those parcels.  
&  
That Lots 7 & 9 hereon be held together and one Record  
of Title be issued to include both of those parcels.

Refer to attached schedule for  
easement detail

Areas and Boundaries  
approximate only and  
subject to survey

CLARK FORTUNE  
McDONALD & ASSOC.  
FILE: 15139 REV: A  
CLIENT: ROSS  
REV DATE: 18/07/2023

Proposed Subdivision of  
Lot 1 DP 3444 and Pt Lot 68 DP 134  
[SL152/17] & Pt Lot 69 DP 134 [SL10D/815]

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## Schedule / Memorandum of Easements

Surveyor Reference: 15139

Schedule of Existing Easements to be Retained			
Purpose	Shown	Servient Tenement (Burdened Land)	Document ID
Right to Take and Convey water	<b>A</b> (Previously Part of A DP 549306)	Lot 7 hereon	EI 11754877.1
Right to Take and Convey water	<b>B</b> (Previously Part of A DP 549306)	Lot 6 hereon	EI 11754877.1
Right to Take and Convey water	<b>C</b> (Previously Part of A DP 549306)	Lot 5 hereon	EI 11754877.1
Right to Take and Convey water	<b>D</b> (Previously Part of A DP 549306)	Lot 4 hereon	EI 11754877.1
Right to Take and Convey water	<b>E</b> (Previously Part of A DP 549306)	Lot 10 hereon	EI 11754877.1
Right to Convey water	<b>B</b> DP 549306	Lot 3 hereon	EI 11754877.1
Sewage (Effluent Field)	<b>E</b> DP 14758	Lot 3 hereon	256510.2