

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC24052 and LU24053
Applicant	Invercargill Education Trust
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for: Subdivision consent to undertake a four lot rural subdivision, where Lots 1 and 2 are less than 2 hectares in area and Land Use consent to breach site coverage and yard setbacks on Lots 1 and 2
Location	87 Charlton Road
Legal Descriptions	Lot 1 Deposited Plan 544388 (RT 921915) Lot 2 Deposited Plan 544388 (RT 921916) Lot 3 Deposited Plan 544388 (RT 921917)
Activity Status	Discretionary
Decision Date	18 December 2024

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 Penny Weng, on 18 December 2024 under delegated authority pursuant to Section 34A of the RMA.

2. Pursuant to Section 104 and Section 104B of the RMA, subdivision consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 and 220 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Penny Weng, under delegated authority pursuant to Section 34A of the RMA.
3. Pursuant to Section 104 and Section 104C, of the RMA, land use consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 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 Penny Weng, under delegated authority pursuant to Section 34A of the RMA.

1. THE PROPOSAL

The site at 87 Charlton Road comprises three allotments across three titles. The Applicant proposes to undertake a subdivision of 87 Charlton Road to subdivide off the consented (but yet to be constructed) church from the existing school on site. The proposal will also shift the legal boundaries of Lot 3 and Lot 4, 6m to the west to enable the appropriate access to be constructed and upgraded to serve Lots 1 to 4 in accordance with the Subdivision and Land Development Bylaw 2019.

The four lot rural subdivision proposed is as follows:

Lot Number	Site area
Lot 1	1.08ha of bare rural land (containing the consented church in the future)
Lot 2	1.21ha of rural land containing an educational facility
Lot 3	2.03ha of bare rural land
Lot 4	2.08ha of bare rural land

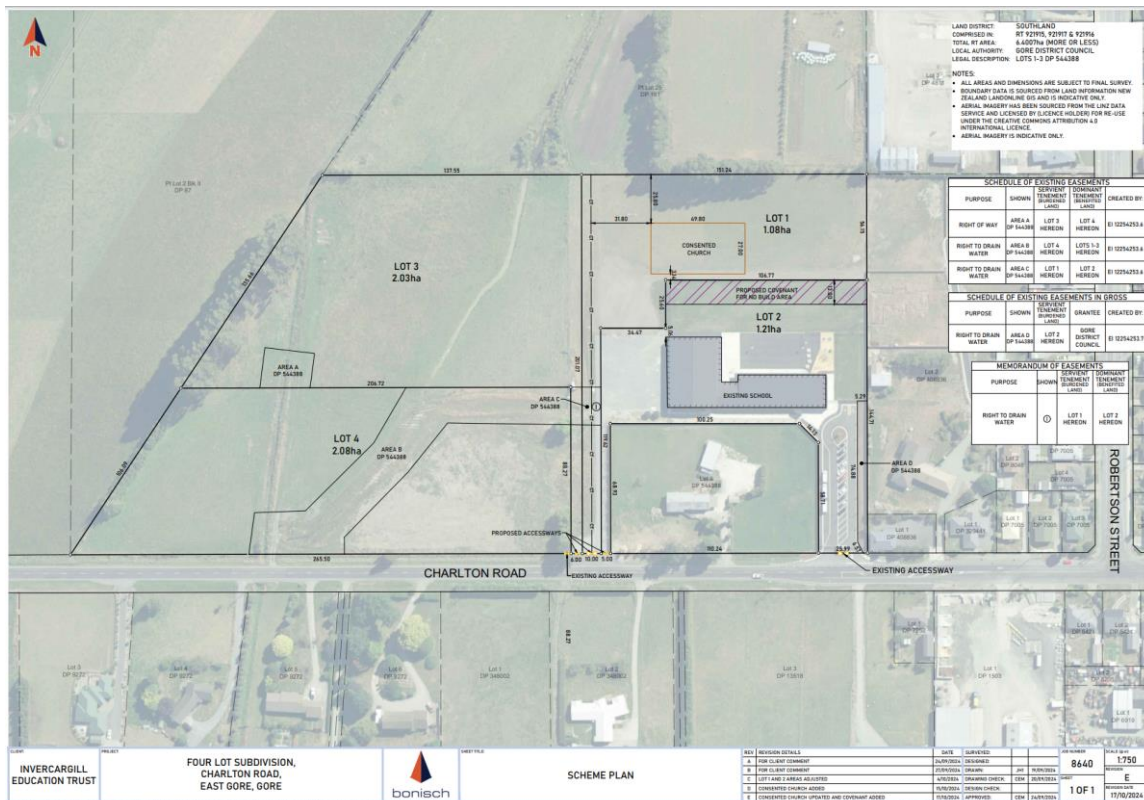


Figure 1: Proposed Scheme Plan

There is an existing access to Lot 2 at the eastern end of the road frontage, which will be retained.

A combined access to Lots 1, 2, 3 and 4 is proposed to be upgraded, this will span 25m in width. This will also include a 2.5m seal widening between the existing eastern access to Lot 2 and the new western access to Lots 1 to 4.

Existing services to all four lots are to be retained. No services are proposed as part of this subdivision.

Land use consent is sought as the proposed new common boundary between Lots 1 and 2 will result in a yard setback breach for the consented church (LU24013) on Lot 1 and the existing school on Lot 2. The church will be setback 3.14 metres from the southern boundary of Lot 1 and the school on Lot 2

will be setback 5.06m at the closest point from the northern boundary of Lot 2. Consent is also sought for site coverage breaches of the existing and proposed buildings on Lot 1 and Lot 2, where both will exceed the maximum site coverage of 500m² for sites under 2 hectares.

2. SITE DESCRIPTION

The site is located at 87 Charlton Road, Upper Charlton and is within the Rural Zone of the Gore District Plan. The site encompasses three title areas and is approximately 6.4ha of land which is as follows:

- Lot 1 Deposited Plan 544388 and Lot 3 Deposited Plan 544388 under records of title 921915 and 921917 respectively, which are held by Trustee MA1 Limited and;
- Lot 2 Deposited Plan 544388 under record of title 921916, held by the Applicant being Invercargill Education Trust.

Written approval has been provided by Trustee MA1 Limited for this four lot subdivision including Lot 1 Deposited Plan 544388 and Lot 3 Deposited Plan 544388.

The site contains a school building - OneSchool Global - Gore Campus which is located in the southern portion of Lot 2 Deposited Plan 544388, with playing courts and sports fields to the north of the main school building. The remainder of the site is generally bare land.

To the north and west of the site, the land use is predominantly used for rural purposes. To the east of the site, the land use is predominantly residential and to the south of the site, the land use is rural and rural residential.

The Council's mapping system identifies the site as being in an actual or potential flooding hazard associated with the Mataura River Catchment.

The liquefaction risk across the site is 'negligible'. This site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site.

The majority of the subject site has been identified as containing LUC 3 High Class Soils.

The records of title contain the following interests:

- Consent Notice 12254253.2 on RT 921915 - includes conditions relating to firefighting water supply and stormwater disposal. There is also a condition relating to future building being within the building platform shown on the title plan.
- Land Covenant 12254253.8 on RT 921915, RT 921916 and RT 921917 - which contains conditions relating to the educational facility now on site.
- Land Covenant in gross 12254253.9 on RT 921915 and RT 921917. Conditions relating to selling, disposing or transferring the land with first right of refusal to be given to Invercargill Education Trust.
- Consent Notice 12254253.3 on RT 921916. This consent notice includes the same conditions as in 12254253.2, as well as conditions relating to the lot being for the use of school purposes as authorised by LU 2019/407, which includes alterations to Charlton Road and the letter box pull over areas.
- Land Covenant 12606932.8 on RT 921916. This title is noted as Benefited Land on the Land Covenant and is not subject to the conditions of the covenant.

- Consent Notice 12254253.4 on RT 921917 - includes conditions relating to fire-fighting water supply, stormwater, building platform and future building.



Figure 2: Subject site outlined in blue and the receiving environment

3. ACTIVITY STATUS

3.1 Operative Gore District Plan

The site is zoned Rural in the Operative Gore District Plan and the proposed activity requires resource consent under the District Plan for the following reasons:

- A **discretionary** activity pursuant to Rule 8.10(5) as the proposed subdivision of land does not comply with the provisions of 4(b), which requires each lot to have a minimum lot size exceeding 2 hectares in area. Lot 1 will be 1.08ha and Lot 2 will be 1.21ha. Lot 3 and Lot 4 will comply being 2.03ha and 2.08ha respectively.
- A **restricted discretionary** activity pursuant to Rule 4.7A.1(4) as the proposal breaches rule 4.7.1(2), which requires buildings to have a 6m setback from the property boundary. The proposed (consented) church on Lot 1 will be setback 3.14m from the proposed internal boundary with Lot 2 and the school on Lot 2 will be setback 5.06m from the proposed internal boundary with Lot 1.

- A **restricted discretionary** activity pursuant to Rule 4.9.1(2) as the proposal breaches rule 4.9.1(a)(i), which relates to site coverage. Lot 1 will be less than 2 hectares and the proposed (consented) church will be 1,100m² in area. Lot 2 will be less than 2 hectares and the existing school on site will be 2,138m² in area. These structures cover more than 500m², the lesser of 40% of the site area for Lot 1 and Lot 2.

3.2 Proposed Gore District Plan

The site is proposed to be zoned as Rural Lifestyle Zone 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 Council records, the piece of land to which this application relates is not a HAIL site, and therefore the NES-CS does not apply.

3.4 Activity Status Summary

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

4. NOTIFICATION ASSESSMENT

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

4.1 Public notification – Section 95A

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

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are no rules in a plan or National Environmental Standard that preclude notification.
- The application is not:

- a controlled activity; or
- a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Step 3 – Public notification is required in certain circumstances

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

The following effects must be disregarded:

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

Written Approval/s

The following written approvals have been provided:

Person (owner/occupier)	Address (location in respect of subject site)
Trustee MA1 Limited (Todd Bishop Marcelle Bishop)	Lot 1 DP 544388 and Lot 3 DP 544388

The following effects may be disregarded:

- An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is as follows:

Permitted Baseline

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case, as all subdivisions require a resource consent, there is no permitted baseline in this regard.

In relation to the land use component, all structures are permitted if these are setback 6m from the legal boundary in the Rural Zone, provided they do not house animals. This forms the relevant permitted baseline and the extent of this breach and effects on the environment are discussed below. The proposed church on Lot 1 will be setback 3.14m from the internal boundary between Lot 1 and Lot 2, breaching this standard by 2.86m and the existing church on Lot 2 will be setback 5.06m from this internal boundary, breaching this standard by 0.94m.

Land Use – Yard setbacks.

The church to be located on Lot 1 will be setback 3.14 metres from the new common boundary with Lot 2, encroaching into the required 6m yard setback by 2.86m.

The existing school will be set back 5.06 metres from the northern boundary of Lot 2 at the closest point, encroaching into the required 6m yard setback by 0.94m.

As these setback breaches affect the common boundary, adverse effects in relation to these yard setback non-compliances have been discussed in the subsequent s95 – Effects on persons assessment, as these are considered to be boundary activities with negligible effects on the wider environment.

Site coverage

No buildings are proposed on Lots 3 and 4. If future buildings are proposed they will likely be able to comply with the maximum site coverage standards for sites with areas over 2ha.

It is noted that resource consent has been granted for both structures exceeding site coverage on the existing site (LU2019/407 and LU24013). However, due to the subdivision which will create two new lots with an area under 2ha, both the proposed (consented) church (Lot 1) and the existing school (Lot 2) will not comply with the maximum site coverage of 500m² for sites under 2ha.

The proposed church will have a total footprint of 1,100m² on Lot 1 with an area of 1.08ha. When viewed as a complete site, the total site coverage of the proposed building will be 10.28% on Lot 1. Although the church will exceed the minimum 500m² permitted by 600m², the proposed church will be located on the southern portion of the lot and behind the existing school on Lot 2. The proposed church meets the required setbacks for the Rural Zone along the external boundaries, providing further mitigation to the increased site coverage.

The existing school has a total footprint of 2,138m² on Lot 2 with an area of 1.2ha. The school is existing on site and is a common view on this site to the surrounding environment, establishing the existing environment on the site. The large school building with its accompanying access, hardstand and car parking areas has irreversibly altered the character of the area such that it is no longer entirely rural. The open playing fields also help to mitigate the level of built form on the lot, while the proposed No Build Covenant area along the northern boundary will ensure that the open space is maintained. The new boundaries will not be noticeable to the wider environment and therefore the effects of the site coverage exceedance on the environment are no more than minor.

Subdivision - Suitability of the allotments and future land use

The subdivision layout proposes two allotments (Lot 3 and Lot 4) that meet the minimum 2 hectares permitted in the Rural Zone. These lots are intended to be retained for rural and/ or rural lifestyle purposes. These lots are therefore consistent with what the District Plan enables in the Rural Zone and the adverse effects of these lots have been considered by the District Plan.

The subdivision also proposes two allotments (Lot 1 and Lot 2) that are under the minimum 2 hectares permitted in the Rural Zone. Although these two lots are smaller than what is anticipated under the District Plan, the scheme plan reflects a practical layout of the existing and proposed (consented) non-residential activities on the site. Lot 1 and Lot 2 will include the existing school and the proposed church on separate sites with separate servicing. This will distinguish the activities on the site from each other,

allowing the school activity and the church activity to be separate in the future. Lot 2 will contain the school and associated features, whilst Lot 1 will contain the proposed church and carpark.

The applicant has applied for a land use consent for setback and site coverage non-compliances on Lots 1 and Lot 2. As such, the application for subdivision and land use breaches can be assessed as a whole. The extent of the building standard non-compliances have been assessed above, identifying that the effects of the land use breaches will be no more than minor.

The receiving environment is dominated by rural lifestyle and urban activity. The existing and proposed built form on the site will not dominate the landscape or result in adverse effects on open space, as the area in general is characterised by multiple clusters of buildings. Based above on the assessment, the adverse effects of the lot areas being smaller than anticipated by the District Plan will be no more than minor.

Suitability of land for subdivision – Natural Hazards and other Hazards

The subject site is not identified in the Selected Land Use Sites Register ('SLUS') as an actual or potentially contaminated site. The Council's mapping system, which sources information from Environment Southland, identifies the site's liquefaction risk as negligible.

The Council's mapping system identifies the site as being subject to actual or potential inundation. Environment Southland has reviewed the application proposed and has identified that they have no concerns with the proposed subdivision from a flood risk perspective.

Lots 1 and 2 have existing or consented proposed works on site which have been reviewed by Environment Southland under the previous subdivision consent (SC 2019/406) and building consents.

Lots 3 and 4 are proposed to be retained as rural /residential lifestyle lots and no proposed development is occurring on these lots. There are existing consent notice on the record of title of Lot 3 and Lot 4 that requires any dwelling to be located within the hatched buildable area shown on the scheme plan (approved under SC 2019/406/5), and be located on fill with a finished level no less than 70.50 metres above mean sea level; and have a floor level no less than 71.00 metres above mean sea level. These consent notices are being retained for these lots. It is considered that the adverse effects on the environment are no more than minor.

Ability to provide services

The Council's 3 Waters Operations Manager has reviewed the application and has raised no concerns and noted that the services were all connected at the time of development.

Servicing for the proposed church on Lot 1 has been assessed under LU24013 and this is to be dealt with at the building consent stage.

Lot 2 will retain the existing connections to Council reticulated services and electricity and telecommunications.

No connections to Council reticulated servicing are proposed for Lots 3 and 4. No electricity and telecommunications are proposed to Lots 3 and 4.

The scheme plan provided will retain the existing easements for stormwater and includes a new easement, as shown as area I on the scheme plan. This easement will ensure that stormwater from

Lots 1 and 2 are managed adequately on site and will allow Lot 2 the right to discharge water over the boundaries of Lot 1.

It is considered that any adverse effects on the wider environment 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. The subject site is located outside of any mapped significant natural features and landscapes, or areas shown as having identified ecological or cultural values.

The proposed subdivision and existing land development on the site will not have noticeable effects on the water quality in the surrounding area as the buildings are existing and stormwater is managed via the swales located on Lots 3 and 4 in favour of the Council that connect to the reticulated network. Environment Southland have also stated that they have no concerns with the proposed subdivision.

Overall, the adverse effects on the environment are considered to be less than minor.

Effects on traffic

There is an existing access to Lot 2 at the eastern end of the road frontage, which will be retained.

A combined access to Lots 1, 2, 3 and 4 is proposed to be upgraded, this will span 25m in width. This will also include a 2.5m seal widening between the existing eastern access to Lot 2 and the new western access to Lots 1 to 4.

The Council's Senior Roading Operations Officer, Mr Murray Hasler, has reviewed the application. A summary of his assessment is provided below.

The access standards contained in the Gore District Council Subdivision and Land Development Bylaw 2019 (the Bylaw) apply to this situation.

The southern boundary of the site adjoins a section of Charlton Road. The section of Charlton Road adjacent to the proposed subdivision is an urban collector road with a chip sealed carriageway. Charlton Road is straight and flat. A right turn bay has been constructed, in accordance with a previous consent condition (LU24013) at the eastern access to the subject property. A 70kph speed restriction applies to this section of Charlton Road.

The applicant corresponded with Mr Hasler via email (28.05.2024) prior to lodgement where they proposed the following:

- Reduce the width of the maintenance access to the school to 5 metres (the main access to the school will be via the eastern access).
- Shift the boundary of Lot 1 DP 544388 and Lot 3 DP 544388 5 metres to the west to allow an access to Lot 1 DP 544388 to be created.
- Create a 10 metre wide access to the church site.

This earlier proposed access for three lots would result in a 20m total width of combined accessways at the site frontage.

Mr Hasler did not have an objection in principle with this earlier proposed access from a roading perspective, however provided the recommendation “that the west end tapers back to normal seal width from 10m west of the centreline of the westernmost access to proposed Lot 3”.

The Applicant subsequently proposes to create an accessway that is 25m in width to serve four lots. Mr Hasler has reviewed this proposal and provided the following in comment:

LU24013 requires the construction of seal widening in accordance with Diagram R09-2, Primary Commercial Access in the Bylaw. This still stands. The centre line of the proposed access to proposed Lots 3 and 4 shall be the centreline as per Diagram R09-2 which determines the extent of widening west of the combined accesses. The taper from the 2.5m widening shall commence 10m west of this centreline.

It is also proposed that a right turn bay (RTB) be incorporated into the seal widening. The proposed new seal widening, and right turn bay will be very close to the existing RTB at the eastern access. It is therefore recommended that the applicant construct 2.5m wide seal widening between the east and west accesses. It is also noted that there may be a clash with the existing mailboxes on the south side of Charlton Road at Rapid No’s 89 & 90. The applicant shall, if a clash is present, make provision for the relocation of these mailboxes to a safe location and standard acceptable to the Council and the residents of these properties.

The Applicant has agreed to these recommendations, which will be included as conditions of consent. It is therefore considered that any adverse effects relating to traffic and access on the wider environment and road network will be less than minor.

Provision of easements

The schedule of existing easements on Lot 1 Deposited Plan 544388 (RT 921915), Lot 2 Deposited Plan 544388 (RT 921916) and Lot 3 Deposited Plan 544388 (RT 921917) is proposed to remain as identified in Figure 3.

SCHEDULE OF EXISTING EASEMENTS				
PURPOSE	SHOWN	SERVIENT TENEMENT (BURDENED LAND)	DOMINANT TENEMENT (BENEFITED LAND)	CREATED BY:
RIGHT OF WAY	AREA A DP 544388	LOT 3 HEREON	LOT 4 HEREON	EI 12254253.6
RIGHT TO DRAIN WATER	AREA B DP 544388	LOT 4 HEREON	LOTS 1-3 HEREON	EI 12254253.6
RIGHT TO DRAIN WATER	AREA C DP 544388	LOT 1 HEREON	LOT 2 HEREON	EI 12254253.6

SCHEDULE OF EXISTING EASEMENTS IN GROSS				
PURPOSE	SHOWN	SERVIENT TENEMENT (BURDENED LAND)	GRANTEE	CREATED BY:
RIGHT TO DRAIN WATER	AREA D DP 544388	LOT 2 HEREON	GORE DISTRICT COUNCIL	EI 12254253.7

MEMORANDUM OF EASEMENTS			
PURPOSE	SHOWN	SERVIENT TENEMENT (BURDENED LAND)	DOMINANT TENEMENT (BENEFITED LAND)
RIGHT TO DRAIN WATER	①	LOT 1 HEREON	LOT 2 HEREON

Figure 3: Schedule of easements

A proposed easement shown as I on the Scheme Plan is required to provide Lot 2 the right to drain water over Lot 1.

At the time of survey, all necessary easements will be confirmed and registered onto the relevant records of title. Adverse effects on the wider environment are considered to be less than minor.

Conclusion: Effects On The Environment

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

Step 4 – Public Notification in Special circumstances

- There are no special circumstances that warrant public notification.

4.2 Limited notification – Section 95B

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

Step 1 – Certain affected groups or persons must be notified

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

Step 2 – Limited notification precluded

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.
- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

Step 3 – Certain other affected persons must be notified

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

An assessment in this respect is therefore undertaken as follows:

Considerations in assessing adverse effects on persons under s95E

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The

relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.

- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

Assessment: Effects on Persons

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



Figure 4: Surrounding neighbouring properties

The adjacent properties include:

- Red = written APA provided
- Orange = South properties
- Green = North and west
- Blue = East properties

Site coverage

Lot 1 and Lot 2 will exceed the site coverage of 500m² permitted in the Rural Zone. Although both of the lots exceed the permitted site coverage, this will not be overly noticeable to the owners and occupiers of the neighbouring properties, given the school on Lot 2 is existing and forms part of the existing environment. The proposed church, although not yet built will be located behind the existing school on Lot 1.

The future church will largely not be visible to the owners and occupiers of these neighbouring properties due to the separation distance and buffer provided by the school. For the adjoining owners and occupiers that do have a view of the school and/or future church, the level of open space on Lot 1 and Lot 2 ensures that any dominance of built form is less than minor. The proposed No Build Covenant along the northern boundary of Lot 2 will ensure that the open space is maintained.

Yard Setback

The yard setback relates to the internal common boundary of Lot 1 and Lot 2. The proposed church on Lot 1 will be setback 3.14m from the south boundary, breaching this standard by 2.86m and the existing church on Lot 2 will be setback 5.06m from the northern boundary, breaching this standard by 0.94m. Written approval is implied by the application as proposed Lot 1 and Lot 2 are currently held within the same ownership by the Applicant.

As the school is existing and the church has resource consent, the effects can be considered to be already existing. The effects are the same even if the sites were not to be subdivided. The reduced setbacks will not result in adverse effects outside of the application site and all buildings are setback a sufficient distance to ensure that circulation is achieved. Furthermore, the proposed No Build Covenant area along the northern boundary of Lot 2 ensures that there is no increased risk relating to fire.

Overall, it is considered that the effects on the adjacent owners and occupiers are less than minor.

Subdivision

The subdivision will create one additional allotment. Proposed Lot 3 and Lot 4 comply with the minimum lot sizes for the Rural Zone and therefore, this has been anticipated under the District Plan. These lots are being retained as rural/ rural lifestyle blocks and will not be out of character with the surrounding rural / residential environment.

Proposed Lot 1 and Lot 2 will be smaller than anticipated by the District Plan and not meet the minimum 2 hectare area permitted in the Rural Zone. The proposed scheme plan reflects a practical layout for the existing and proposed built environment on these lots and demonstrates that the non-residential activities on site can be accommodated and are able to operate without constraint. Overall, it is considered that the adverse character and amenity effects of the undersized lots are less than minor on these adjacent occupiers and owners.

Conclusions: Effects on Persons

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

Step 4 – Special Circumstances for Limited Notification

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

5. DECISION PURSUANT TO S95A AND S95B OF THE RMA

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

6. SECTION 104 ASSESSMENT

6.1 Matters for consideration

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

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

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

6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 and 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 3 Land Use Activities - A Framework and Chapter 8 Subdivision of Land of the District Plan.

The Applicant has provided an assessment of the relevant objectives and policies at page 8 and 9 of the application. This is adopted for the purposes of this assessment with the following additional comments.

In summary, the proposed subdivision activity and associated land use breaches will not detract from amenity or character values of the Rural Zone. Furthermore, the site is capable of absorbing the proposal without detracting from the character or amenity values of the area and the built form is not increased to a point where over development will occur.

Overall, the proposal is considered to be generally consistent with the Objectives and Policies of the District Plan.

Proposed District Plan

The Proposed District Plan has been notified, submissions have closed and hearings are underway. As no decisions have yet been issued, the weighting of assessment currently falls with the Operative District Plan.

National Policy Statement for Highly Productive Land

The National Policy Statement for Highly Productive Land (NPS-HPL) was released in September 2022. The NPS-HPL defines highly productive land (HPL) as land that has been identified as either Land Use Capability (LUC) 1, 2 or 3. In this instance, part of the subject site has been identified as containing LUC Class 3 soils and as such, the NPS-HPL applies to this application.

The relevant operative objectives and policies are contained within Part 2 of the NPS-HPL.

2.1 Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations

2.2 Policies

- 1. Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production*
- 4. The use of highly productive land for land-based primary production is prioritised and supported.*
- 7. The subdivision of highly productive land is avoided, except as provided in this National Policy Statement*
- 8. Highly productive land is protected from inappropriate use and development.*
- 9. Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.*

The NPS-HPL seeks to avoid subdivision of highly productive land unless there is consistency between the proposal and Clause 3.10 of the NPS. The majority of the LUC – 3 mapping extends over Lot 3 and Lot 4 and partially over Lot 1 and 2.

The subdivision and development of the site as proposed does not fully meet the tests as set out in clauses 3.8 or 3.9 of the NPS-HPL.

Clause 3.10 sets out an exemption for land to be subdivided:

Clause 3.10 – Exemption for highly productive land subject to permanent or long-term constraints

(1) Territorial authorities may only allow highly productive land to be subdivided, used or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 is satisfied that:

- a) There are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based production is not able to be economically viable for at least 30 years; and*
- b) The subdivision, use or development:*
 - i. Avoids any significant loss (either individually or cumulatively) or productive capacity of highly productive land in the district; and*
 - ii. Avoids the fragmentation of large and geographically cohesive areas of highly productive land; and*
 - iii. Avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-based primary production from the subdivision, use or development of; and*
- c) the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*

I adopt the agent's assessment of clause 3.10 and the objective and policies of the NPS-HPL from pages 12 and 13 of the application and provide the following comments.

The proposal to undertake a subdivision of the site does not create permanent or long-term constraints on the land. Lot 3 and Lot 4 are to be retained as rural / rural lifestyle blocks that meet the minimum lot size of the District Plan.

The existing school activities on Lot 1 have been established since 2021, before the NPS-HPL. The proposed church on Lot 2 has been assessed under the relevant resource consent (LU 24013) which includes an NPS-HPL assessment. The subdivision avoids the fragmentation of the site in the Rural Zone, as the creation of an additional lot will occur on the legal title that has both an existing and consented non-rural activity on site, which has essentially already removed most of this title from being available for highly productive uses.

There will be no significant or additional loss of highly productive land as a result of the subdivision proposal. Overall, the proposed subdivision is generally consistent with the objective and policies of the NPS-HPL.

Southland Regional Policy Statement 2017

Chapter 5 of the RPS (Regional Policy Statement) relating to Rural Land / Soils is particularly relevant to this proposal.

The proposed subdivision provides for the economic and social wellbeing of the district, as it will enable a separate lot for the proposed church activity to occur. Although an additional lot is proposed and will not be utilised for a rural activity, the church activity is already consented. In addition, the subdivision avoids adverse effects on the soil and water resource, as identified under the section 4 assessment. Lots 3 and 4 will comply with the minimum lot size under the Operative District Plan to enable rural activities to occur in accordance with the SRPS. Therefore, it is considered that the objectives and policies of the SRPS are met.

7. SECTION 106 REQUIREMENT FOR SUBDIVISION

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. In this case each lot has a physical and legal access. The lots that are identified as being subject to an inundation hazard (Lots 3 and 4) have existing consent notices on the titles and the existing buildings on the site have been approved with raised floor levels.

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 land is protected for future generations.

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 and residential 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 surrounding rural and residential 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

Decision A – Subdivision

Pursuant to Section 104B of the RMA, consent is **granted** to undertake a four lot subdivision in the Rural Zone where Lots 1 and 2 are less than 2 hectares in area, subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Consent Conditions

1. The activity shall be undertaken generally in accordance with the application as received on 25 October 2024 and the further information provided on the 11 December 2024 and the following plan:
 - ‘Scheme Plan’ Rev E, prepared by Bonisch, dated 17/10/2024

This plan is attached as 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.
3. The consent holder shall meet the costs for the preparation, review, and registration of any easement instrument(s) on the relevant Records of Title.
4. Prior to certification pursuant to Section 223 of the Resource Management Act 1991, the consent holder must provide to Council, a written statement from a Licensed Cadastral Surveyor to confirm there is a minimum setback of 3.14m between the church building (if constructed) on Lot 1 to the internal boundary shared with Lot 2, and there is a minimum setback of 5.06m between the school building on Lot 2 to the internal boundary shared with Lot 1.
5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall, to the satisfaction of the Chief Executive Officer of the Gore District Council, complete the following, in accordance with the details provided in the resource consent application and the Council's standards:
 - a. The vehicle crossing for Lots 1 to 4 shall be constructed in accordance with Diagram R09-2, Primary Commercial Access of the Subdivision Development and Land Development Bylaw 2019.
 - b. The seal shall be widened from the centreline of the proposed access. The taper from the 2.5m widening shall commence 10 west of the centreline of the proposed access over Lot 3 and 10 east of the centreline of the proposed access over Lot 2.
 - c. The seal shall be widened by 2.5 metres on the southern side of Charlton Road between the eastern right turn bay (that serves Lot 2) and western access (that serves Lots 1 to 4).
 - d. The relocation of mailboxes, if required.
 - e. The location of any utilities in the existing road berm and details of how these will be protected.
6. The consent holder shall provide all quality assurance and as-built information required to demonstrate compliance with condition 4, in accordance with the Gore District Council's Subdivision, Land Use and Development Bylaw 2019.
7. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991; a consent notice, in accordance with Section 221 of the Resource Management Act 1991, shall be drafted for registration against the Record of Title for Lot 2 to record that:
 - a. No structures are permitted to be constructed within the no build area as shown on plan *"Four Lot subdivision, Charlton Road, East Gore, Gore - Scheme Plan, Rev E, dated 17/10/2024."*

Decision B – Land Use

Pursuant to Section 104C of the RMA, land use consent is **granted** to breach site coverage and yard setbacks on Lots 1 and 2, subject to the following conditions imposed pursuant to Section 108 of the RMA:

Consent Conditions

1. The activity shall be undertaken generally in accordance with the application as received on 25 October 2024 and the further information provided on the 11 December 2024 and the following plan:
 - 'Scheme Plan' Rev E, prepared by Bonisch, dated 17/10/2024

This plan is attached as Appendix A.

Advice Notes

1. The Gore District Plan and Gore District Council Subdivision and Development Bylaw 2019 sets out standards and requirements which are required to be met in any subdivision or constructing of buildings.
2. This resource consent does not constitute a building consent under the Building Act 2004. The consent holder should consult with Building Services at the Gore District Council to obtain information on any building consents required to undertake the development.
3. At the time of subdivision, an electricity connection was not provided to Lots 3 and 4 and an electricity connection needs to be installed at a cost to the owner at the time that the connection is applied for.
4. Any work carried out on the legal roadway requires the prior approval of the Council and consent holder must consult with the 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.

Prepared by



Bridget Sim
Planner

Decision made by



Penny Weng
Delegate

Appendix A: Approved Plan

APPENDIX A – APPROVED PLAN



CLIENT
INVERCARGILL EDUCATION TRUST

PROJECT
FOUR LOT SUBDIVISION,
CHARLTON ROAD,
EAST GORE, GORE

DESIGNER
Bonisch

DATE
17/07/2024

SCHEME PLAN

NO.	REVISION DETAILS	DATE	SUBMITTED	FOR APPROVAL
1	FOR CLIENT COMMENT	24/07/2024	DISBANED	8640
2	FOR CLIENT COMMENT	27/07/2024	DISBANED	1750
3	FOR CLIENT COMMENT	27/07/2024	DISBANED	1750
4	LOT 1 AND 2 AREAS ADJUSTED	27/07/2024	DISBANED	1750
5	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750
6	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750
7	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750
8	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750
9	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750
10	CONSISTED CHURCH ADDED	27/07/2024	DISBANED	1750

LAND OFFICIAL
SOUTHLAND
RT 20715, 20717 & 20719,
TOTAL BY AREA: 6.4071ha (MORE OR LESS)
LOCAL AUTHORITY: GORE DISTRICT COUNCIL
LEGAL DESCRIPTION: LOTS 1-3 DP 544388

NOTES

- ALL AREAS AND DIMENSIONS ARE SUBJECT TO FINAL SURVEY.
- THESE DIMENSIONS ARE INDICATIVE ONLY.
- AERIAL IMAGERY HAS BEEN SOURCED FROM THE LINZ DATA SERVICE (LDS) AND IS INDICATIVE ONLY.
- THESE DIMENSIONS ARE INDICATIVE ONLY.
- INTERNATIONAL LICENCE: 40
- AERIAL IMAGERY IS INDICATIVE ONLY.

MEMORANDUM OF AGREEMENTS	
PURPOSE	SHOWN
RIGHT TO DRINK WATER	LOT 1 HERON
RIGHT TO DRINK WATER	LOT 2 HERON

SCHEDULE OF EXISTING EASEMENTS IN GROSS	
PURPOSE	SHOWN
RIGHT OF WAY	LOT 2 HERON
RIGHT TO DRINK WATER	LOT 1 HERON
RIGHT TO DRINK WATER	LOT 2 HERON