

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC 23064
<b>Applicant</b>	Logan Copeland
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a three-lot rural subdivision over two stages.
<b>Location</b>	96 Kelvin Road, RD 4
<b>Legal Description</b>	Lot 1 DP 12672
<b>Activity Status</b>	<b>Restricted Discretionary</b>
<b>Decision Date</b>	17 January 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 Werner Murray, on 17 January 2024 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, under delegated authority pursuant to Section 34A of the RMA.

# 1. THE PROPOSAL

Consent is sought for a three-lot rural subdivision of 96 Kelvin Road (Figure 1), as follows:

Lot 1	Being 4.59ha. The site contains an existing residential dwelling and accessory buildings, located 12m of the new proposed east boundary. There are existing sheds and a covered sheep yard located in the northwestern corner of the lot. The existing access from Kelvin Road will be retained, and will be via a right of way, owned by Lot 1.
Lot 2	Being 2.58ha consists of vacant rural land. Future access is proposed via the existing gate located in the southeast corner of the lot from Kelvin Road.
Lot 3	Being 2.33ha consists of vacant rural land. Future access is proposed via the proposed Right of Way easement 'A' from Kelvin Road as indicated on the proposed scheme plan. This is in favour of Lot 3, over Lot 1.

The subdivision is proposed to occur over two stages, where Lot 1 will be subdivided first, creating two lots on the subject site. The resultant lot created will be subdivided further into Lot 2 and Lot 3 for rural or permitted residential activities.



Figure 1: Scheme plan of proposed subdivision for 96 Kelvin Road.

The application was updated on the 19 December 2023 following consultation with the Council’s Building and Roding Department. Consultation with the Building Department was in relation to the existing residential dwelling effluent field location crossing over proposed Lot 3 north boundary. An updated scheme plan now shows that the effluent field is contained within Lot 1 (reference email: correspondence from Ben Wilson – Clark Fortune McDonald Surveying, dated 19 December 2023). The applicant also accepted the Roding Department recommendation to utilise the alternative access to proposed Lot 2 from Kelvin Road, resulting in only Lot 1 and Lot 3 utilising the existing formed vehicle access as a right of way from 96 Kelvin Road.

## **Servicing**

The proposed lots are not located within the Council's reticulated service network. Lot 1 has existing onsite services, which will be retained. Onsite servicing will be provided for Lot 2 and 3 if future rural/residential development occurs with respect to wastewater, stormwater, and portable water. These will be addressed individually at building consent stage when future residential units are being built. The application acknowledges consent notices may be included to this effect.

The Applicant has confirmed that electricity and telecommunications to the additional proposed lots are available. Connection to the individual lots will be established at the time of building consent.

## **Access**

Proposed Lots 1 and 3 will retain the existing vehicle access onto Kelvin Road. This is formed of a dual entrance to the existing driveway, this has been referred as the 'west access' and 'east access' respectively for the purposes of this assessment. A right of way is proposed over Lot 1, in favour of Lot 3, recognised as Area A on the scheme plan. This access will be upgraded to be in accordance with the Gore District Council Subdivision and Land Development Bylaw (Bylaw).

Future access for Lot 2 will be from the existing southeast gateway off Kelvin Road, as indicated on the scheme plan attached as Appendix A. This will be finalised and established at the time of building consent and are required to be constructed in accordance with the Bylaw.

The applicant has accepted the recommendations by Gore District Councils Senior Roading Asset Manager Murray Hasler.

## **2. SITE DESCRIPTION**

The subject site is located at 96 Kelvin Road, legally known as Lot 1 DP 12672. The site is located in the Rural zone of the Operative Gore District, consisting of 9.50ha and is utilised for rural and rural lifestyle purposes.

The subject site consists of undulating topography, with flat areas. On the site there is an existing residential dwelling and accessory buildings located in the northern portion of the subject site, including a covered woolshed located in proposed Lot 1. The existing dwelling is currently serviced for domestic purposes in terms of water supply, wastewater, stormwater, electricity, and telecommunications. The immediate surrounding area along Kelvin Road is of rural nature with the adjacent neighbouring property consisting of rural lifestyle block.

The subject site has frontage to Kelvin Road, a chip sealed rural local access road that services surrounding rural properties. Although this is a public open road with an operating speed of 100kph, due to the curvy nature of the road, following the topography, the operating speed limit for the road is likely reduced to around 75kph – 85kph around corners.

### ***Site History – Access***

The subject site existing access has a dual sealed entrance onto Kelvin Road, located on a corner that results in an estimated operating speed of 75kph. Although there is dual access onto Kelvin Road, only the 'west access' is actively utilised by the subject site. This is intended to be retained whilst the 'east access' will be closed.

This access is located on a corner with a wide road verge that extends to the western neighbouring property (Part Lot 2 DP 83) formed vehicle access. This property recently obtained a subdivision consent (reference: SC 23038, issued 10 July 2023) for a two-lot rural subdivision.

Council's Senior Roading Operations Manager, Murray Hasler held that the sight distance was insufficient due to the corner and had safety concerns. Under the consent, it permitted the existing sealed vehicle access perpendicular to Kelvin Road to be retained for the lot. This is located in the southeast corner of the Lot 1, adjacent to the western boundary of the subject site as identified by Figure 2. Due to this being located on the corner with insufficient sight distance, a traffic mirror was required to be installed on the north side of Kelvin Road between Lot 1 and the existing access to 96 Kelvin Road. This enables drivers turning right into these lots to see vehicles approaching from the west and behind better. Vegetation on the south side of Kelvin Road was also required to be removed to improve visibility to both east and west bound traffic. These requirements under this consent will help improve the traffic safety of the corner in the future for users.

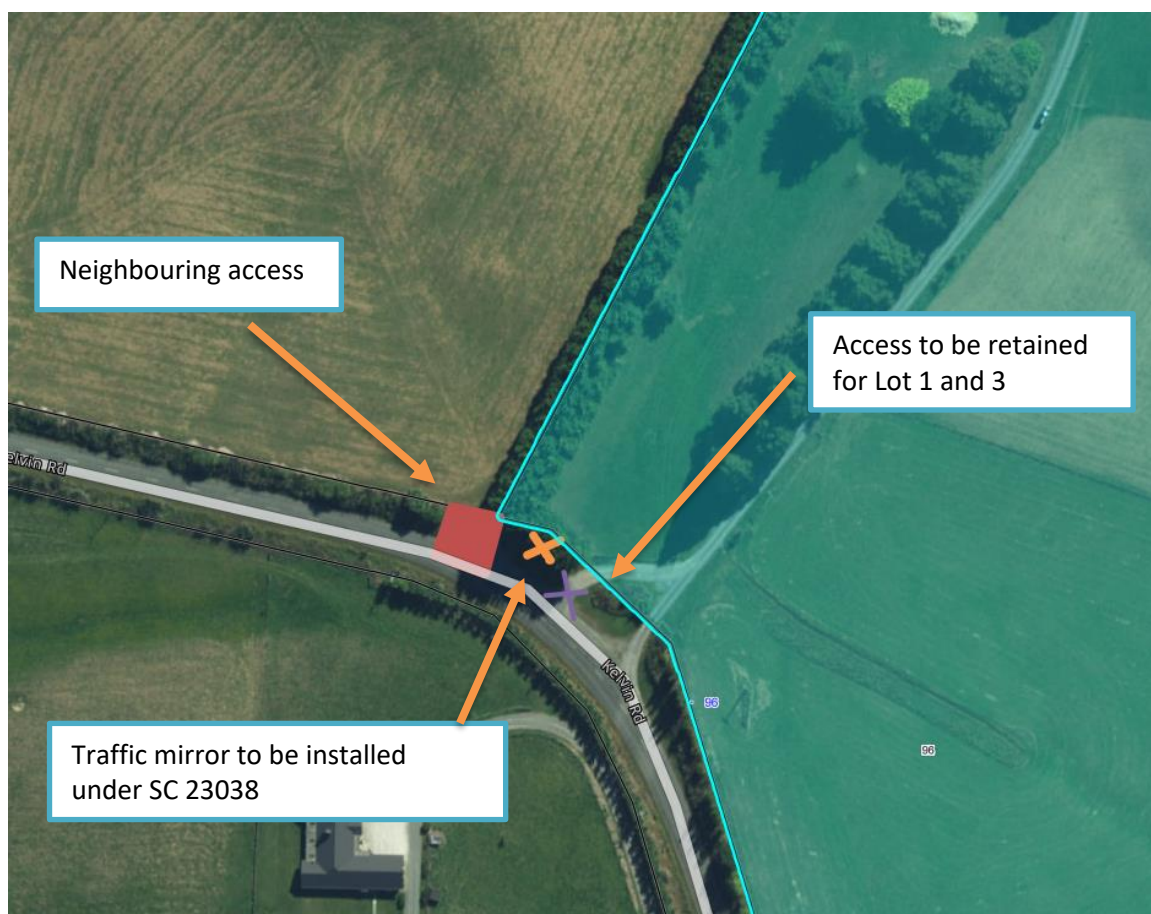


Figure 2: Aerial image of subject site showing the access to the subject site and neighbouring property and proposed traffic mirror to be installed (Source: GDC ArcGIS Map).

The Council's mapping system does not identify the subject site to be subject to inundation. It identifies the liquefaction risk as 'Negligible' across the site.

The site is subject to the Land Use Capability 3 Overlay and therefore is considered to be High Class Soil under the National Policy Statement for Highly Productive Land.

This site is not identified as being on the Selected Land Use Register as an actual or potentially contaminated site. The Applicants have advised that they are not aware of the presence of any contaminations that could be hazardous to human health. The existing covered woolshed does not have a sheep dip associated with it, specifically the applicants are not aware of any historical sheep dips on the subject site. There are no known natural features and landscapes or historic heritage features on the site.



Figure 3: Aerial image of subject site outlined in red (Source: GDC IntraMaps).

### 3. ACTIVITY STATUS

#### 3.1 Gore District Plan

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

- A **Restricted Discretionary** activity pursuant to Rule 8.10(4)(b) as the proposal is to undertake a two-lot subdivision of the subject site, where each lot will exceed 2 hectares in area. Council's discretion is restricted to the following:
  - (i) *suitability of the allotments for activities permitted within the zone in which they are located.*
  - (ii) *suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land;*
  - (iii) *ability to provide services (water, sewage, storm water, power and telecommunications);*
  - (iv) *impacts on the council and other infrastructure services;*
  - (v) *future use of the land and the need to consider any associated resource consents;*

- (vi) *within residential and rural areas lot size, dimensions and potential for future subdivision of the land;*
- (vii) *within residential and rural areas the desirability of providing building platforms; and provision of easements*
- (ix) *impacts on any heritage or archaeological values*
- (x) *impacts on natural features and landscapes, ecological or cultural values*
- (xi) *impacts water quality, including groundwater*
- (xii) *provision of all transport modes, including the movement of pedestrians and cyclists*

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

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

Based on the applicants 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.

## 4. NOTIFICATION ASSESSMENT

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

### 4.1 Public notification – Section 95A

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

#### Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

#### Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are not rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
  - a controlled activity; or
  - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

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

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

The following effects must be disregarded:

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

#### *Written Approval/s*

No written approvals have been provided.

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 subdivision requires resource consent, there is no permitted baseline.

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

The subdivision layout results in all three lots exceeding the minimum 2-hectare requirement for rural zones, specified in the Gore District Plan. Proposed Lot 1 can continue to accommodate the existing residential activity, including onsite services. Lot 2 and 3 can accommodate future residential activity or be maintained for rural use. Any future development on proposed lots 2 and 3 is expected to comply with the Performance Standards in the District Plan for the Rural zone, including yards, daylight admission, coverage, and height standards. Any future development will also be subject to the requirements of the Gore District Subdivision and Land Development Bylaw (Bylaw). These will both be assessed at the time of building consent. The subdivision is therefore consistent with what the District Plan enables in the rural zone. All of the proposed lots are able to be utilised for rural and/ or rural-lifestyle purposes as permitted by the District Plan in rural zones.

Although the subject site displays undulating topography, there are suitable locations for future residential dwellings to be built and the supporting services to be located on both Lot 2 and 3. Additionally, there are no indications of hazards, it is considered unnecessary to require a fixed area for a building platform in order to reduce effects.

There are no other resource consents that are needed to be considered with this subdivision.

Overall, the proposed lots are considered to be consistent with the anticipated development within the Rural zone. It is considered that the size, shape, and configuration of the proposed allotments are appropriate to be used for rural and/ or rural lifestyle purposes and that any adverse effects on the wider environment will be no more than minor.

#### *Suitability of the land for subdivision – Natural Hazards and other Hazards*

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

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

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 located in the Rural Zone. Lot 1 will continue to use the existing onsite services that are for residential purposes with respect to wastewater, stormwater, potable water, and electricity on site. These are all contained within the proposed Lot 1 and no changes are proposed to the existing servicing arrangement.

Lot 2 and 3 are proposed to be serviced onsite should future land use activity require it. The Building Control Manager, Russell Paterson has reviewed the application and noted that there is sufficient space to accommodate these services onsite for any future residential unit. The revised scheme plan dated 19 December 2023 shows that the effluent field for the existing residential dwelling on Lot 1 is located 5m from the proposed boundary of Lot 3. This meets the performance requirements under 'AS/NZS 1547:2012 On-site Domestic Wastewater Management' for setback from neighbouring boundaries.

Proposed lots 2 and 3 will have onsite disposal of wastewater via onsite septic tanks and stormwater that is proposed to be disposed to the ground via a drainage field. The proposed lots will all source their potable water via onsite rainwater collection into rain tanks. Both lots area is appropriate for on-site disposal of wastewater and stormwater runoff that is expected to be fully contained within the proposed boundaries. The detailed design of these services for each individual proposed lot will be assessed at the time a building consent is submitted to the Council for future development.

As the proposed lots are located in the rural area, and not connected to Council's reticulated services, the Gore District Council Subdivision and Land Development Bylaw requests that any new dwellings over 200m<sup>2</sup> floor area require a 45,000L firefighting water storage on site. A reduced volume may be allowed for a smaller footprint. Therefore, FENZ approved documentation will be required to be included with a building consent. This has been volunteered as a consent notice condition for each individual lot by the applicant.



The application outlines that Powernet have confirmed transmission line is available for the proposed lots 2 and 3, additionally telecommunications are able to be connected either via the existing copper line in Kelvin Road or wireless connection.

Overall, the proposed lots can be feasibly serviced, so that any adverse effects on the wider environment will be no more 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 areas shown as having identified ecological or cultural values.

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

#### *Effects on traffic*

The Council's Senior Rooding Operations Manager, Murray Hasler, has reviewed the application. A summary of his assessment is provided below. Access standards contained in the Gore District Council Subdivision and Land Development Bylaw (the Bylaw) apply to this situation.

The existing west access at 96 Kelvin Road which will be retained has significantly reduced sight distances than the anticipated 95m requirement under by the Bylaw. The Rooding Department has safety concerns with this access not meeting the adequate sightline distances for west bound vehicles turning right. With the measurements required to be undertaken by the adjoining neighbouring property that has recently obtained subdivision under SC 23038 which includes installing a traffic mirror between 96 Kelvin Road and Part Lot 2 DP 83 and removing vegetation this will help improve visibility for vehicles turning right.

Due to the access proposing to be a right of way, servicing multiple residential dwellings in the future, it is recommended that Lot 2 use the alternative access suggested by the application. This will be the existing access via a farm gate located in the southeast corner of the proposed lot. This will reduce the number of vehicles using the existing access at 96 Kelvin Road. The proposed access to Lot 2 shall be constructed in accordance with Diagram R09-1 in the Bylaw. This has been accepted by the Applicants, reflected on the updated scheme plan attached as Appendix A showing the access to Lot 2 from Kelvin Road, dated 19 December 2023.

Mr Hasler has recommended that the application be approved from a transportation perspective subject to the above-mentioned rooding requirements.

#### *Provisions of easements*

A right of way is proposed over the existing access/driveway to allow access to proposed Lot 1 and Lot 3, this is in favour of Lot 3 as indicated by area A on the proposed scheme plan.

At the time of survey, all necessary easements will be confirmed and registered onto the relevant Record of Titles. 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.
- The proposal is not on or adjacent to, and will not affect, land that is the subject of a statutory acknowledgment.

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

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

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

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

An assessment in this respect is therefore undertaken as follows:

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

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and

- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

*Assessment: Effects on Persons*

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

*Neighbouring Properties*

The adjacent persons assessed below are all the owners/occupiers of the properties that share a common boundary with the subject site or are located opposite Kelvin Road.

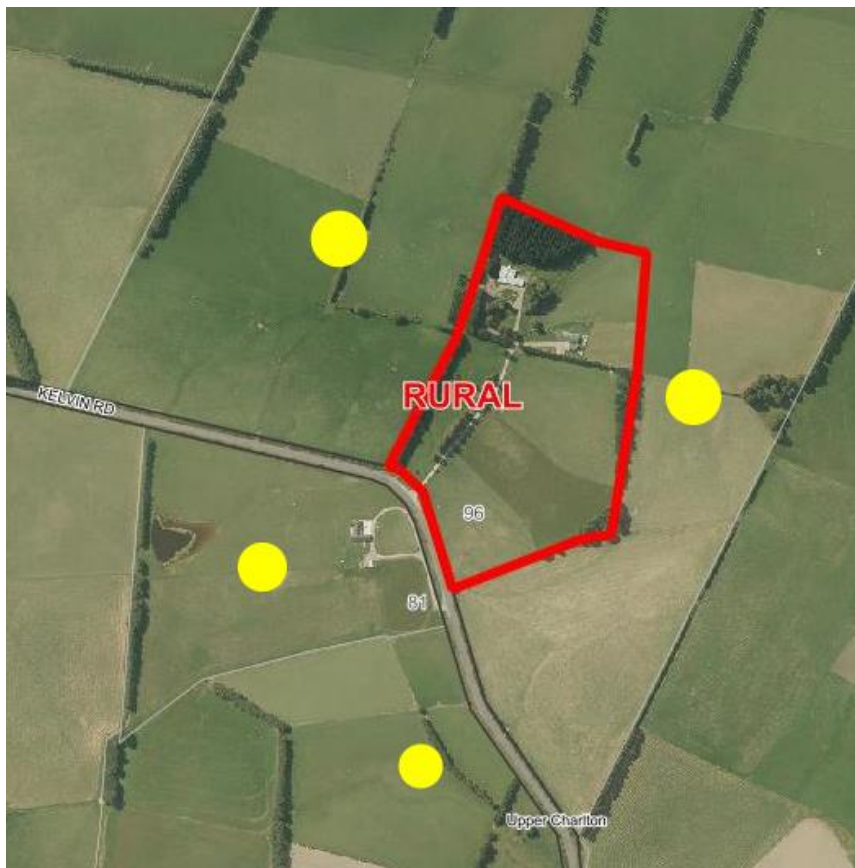


Figure 3: Subject site outlined in red, and neighbouring properties indicated by yellow dots (Source: GDC IntraMaps).

The subdivision meets the standard for minimum lot size in 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. The proposed three lots are of a size and shape that can each accommodate future residential units and/ or be used for rural purposes.

The existing surrounding area consists of rural farmland and rural/residential lifestyle block. The proposed subdivision is considered to maintain the character of the area and the wider amenity

values of the rural zone. Although the subdivision is enabling three more houses in the immediate area, resulting in an increase in built form in the rural zone, this adverse effects of this has been anticipated by the District Plan. Therefore, the consequent increase in density, and associated effects such as noise and traffic generation on the rural local roads will be less than minor on the rural zone.

Overall, it is considered that the proposed subdivision will not create lots or future uses that are out of character for the rural zone that detracts from the existing amenity values. The District Plan anticipates activities of rural nature and/or residential activity on sites equal to or more than 2 hectares. The proposed allotments are of a size that enables the permitted activities in the rural zone to occur. Any adverse effects on the rural character and amenity experienced by persons residing on or working on the adjacent properties will be less than minor.

#### *Conclusions: Effects on Persons*

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

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

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

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

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

## **6. SECTION 104 ASSESSMENT**

### **6.1 Matters for Consideration**

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

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

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

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

## 6.2 Effects on the Environment

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

## 6.3 Relevant Provisions

### District Plan

The relevant operative objectives and policies are contained within Chapter 8 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.*
- (14) Have regard to, and implement, the provisions of the National Environment Standard for Assessing and managing Contaminants in Soil to Protect Human Health where subdivision occurs on any contaminated site.*

The proposed subdivision is consistent with the objectives and policies of Chapter 8. The size and layout of the allotments ensures that they are suitable and appropriate for the rural zone and permitted uses of the land. Proposed Lots 2 and 3 can accommodate future rural/ rural residential activity whilst proposed Lot 1 will continue to accommodate the existing rural residential activity.

The services and connections can be provided adequately for the proposed lots onsite, and it is considered that the subdivision can occur without resulting in adverse effects on the water quality. All works will be required to be undertaken in accordance with the Gore District Subdivision and Land Development Bylaw 2019.

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.

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

The NPS-HPL came into force on 17 October 2022. The objective of the NPS-HPL is that highly productive land is protected for use in land-based primary production, both now and for future generations. It is acknowledged that this property is subject to the Land Use Capability 3 Overlay and therefore is considered to be High Class Soil under the National Policy Statement for Highly Productive Land. As the proposal is a restricted discretionary activity and matters of discretion do not extend to highly productive land, no assessment regarding the high-class soils can be undertaken.

### **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 proposal is consistent with the relevant objectives and policies in the RPS, specifically contained in Chapter 5 (Rural land/soils). The proposed subdivision will create two additional lots to be created. These allotments can continue to provide for a small-scale rural activity following the subdivision. There is sustainable use of Southland's rural land resource through this proposed subdivision scheme as it will allow for the future proposed lots to be used for rural / residential activity. This land development will maintain the rural amenity values and character of the existing rural area.

## **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, Mr Hasler has confirmed that each proposed lots have sufficient accesses. Lot 1 and Lot 3 will have access from the right of way serviced by Kelvin Road, while Lot 2 will have an access from the southeast corner onto Kelvin Road. These will be upgraded in accordance with the Subdivision and Land Development Bylaw.

The proposed lots are not identified to be within a flood hazard, the likelihood of material damage to the land is less than minor.

## **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 enable additional residential dwellings to be constructed in the future on the rural/ rural lifestyle lots. These additional lots will enable people and communities to provide for their social, economic and cultural wellbeing, benefiting the community. 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 land use is appropriate within this rural landscape, as there are a number of existing rural/ rural lifestyle lots in the surrounding area of similar size.

#### *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. The proposal is not considered to be inconsistent with the principles of the Treaty of Waitangi.

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

## **9. DECISION ON RESOURCE CONSENT**

Pursuant to Section 104C of the RMA, consent is **granted** to undertake a three-lot subdivision of 96 Kelvin Road subject to the following conditions imposed pursuant to Section 220 of the RMA:

### **Consent Conditions**

1. The subdivision must be undertaken in generally in accordance with the application made to the Council, reference SC 23064, and the further information received 19 December 2023 and the following plan:
  - *Clark Fortune McDonald & Assoc., Proposed Subdivision of Lot 1 DP 12672 [SL 10A/3], file 16020 Rev A, Date: 19-12-2023.*

The plan is attached at Appendix A

2. Prior to 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.
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 the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder must provide to Council a written statement from a Licensed Cadastral Surveyor, accompanied by any necessary evidence, to the effect that all services are confined to their respective lots or provision has been made for suitable easements to be granted and reserved in the Land Transfer Plan where appropriate.

#### **Access**

5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991 for stage 1, the consent holder shall, to the satisfaction of the Chief Executive Officer of the Gore District Council, seal and upgrade the access to proposed Lot 2 in accordance with the Diagram R09-1 access standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
6. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991 for stage 2, the consent holder shall, to the satisfaction of the Chief Executive Officer of the Gore District Council permanently close the existing eastern access at 96 Kelvin Road to proposed Lot 1 and 3.

#### **Consent Notices**

7. Prior to 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 and registered against the Record of Title for Lot 2 and Lot 3 to record that:
  - a. 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.
  - b. At the time of lodging a building consent for a future dwelling, each application must demonstrate the development has a rainwater collection system which is verified as being potable; this shall include provision for UV filters or UV treatment or alternative treatment provision and shall be submitted with the building consent application(s).
  - c. At the time of lodging a building consent for a residential unit, the lot is to have a specifically researched, designed, and verified system for wastewater and stormwater disposal.

The consent notice shall be registered against the Records of Titles for Lots 1, 2 and 3.

#### **Advice Notes**

1. Any future development on Lots 1, 2, and 3 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 require 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.



3. At the time of this subdivision, a fixed-line telecommunication connection was not provided to Lots 2 and 3 and should a telecommunication service be required in the future, an alternative service (wireless broadband) needs 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 five years from the date of this decision subject to the provisions of section 125 of the RMA.

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

Prepared by



Bridget Sim  
Graduate Planner

Decision made by



Werner Murray  
Delegate

### Appendix A: Approved Plans

# APPENDIX A – APPROVED PLANS

