

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC24017 and LU24018
<b>Applicant</b>	NZ Timber No.1 Ltd Partnership
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a two lot rural subdivision.  Land use consent for yard setback breach.
<b>Location</b>	514 Leithen Road, RD 5
<b>Legal Description</b>	PT Lot 2 DP 1142
<b>Activity Status</b>	Restricted Discretionary
<b>Decision Date</b>	10 June 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 10 June 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 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 Werner Murray, under delegated authority pursuant to Section 34A of the RMA.

# 1. THE PROPOSAL

Consent is sought to undertake a two lot rural subdivision as follows:

Lot 1	Being 5.38 hectares. Proposed Lot 1 contains a residential dwelling and two existing farm accessory buildings, being a woolshed and a deer shed. The lot is otherwise vacant rural land. It is proposed to retain its rural use. Lot 1 will retain the existing access to the residential dwelling and the rural gateway crossings from Leithen Road. Access is also proposed over a right of way. This is shown as area A on the scheme plan, in favour of Lot 2.
Lot 2	Being 245.4 hectares. Proposed Lot 2 comprises vacant rural land where it is intended to retain its rural use. The lot has legal frontage to Leithen Road and Mocking Bird Hill Road, located in the Clutha District. Physical access is proposed via a proposed right of way over Lot 1, in favour of Lot 2 from Leithen Road. This is shown as area A on the scheme plan.

The proposed lots are intended to retain the existing production farming land use with Lot 1 retaining the existing residential dwelling. The applicant does not propose to establish a new dwelling on Lot 2 at this stage, though it is noted that one residential unit is permitted per rural zoned site.



Figure 1: Proposed Scheme Plan

## Servicing

In terms of services, the site is located outside of the Council’s reticulated service network. Lot 1, which contains existing residential dwelling and accessory buildings will retain onsite services in

terms of wastewater (via septic tank), potable water located on the lot and stormwater to ground. These services will be retained and expected to be fully contained within the proposed boundaries. Onsite servicing will be provided for Lots 2 if future rural and residential development occurs with respect to wastewater, stormwater, and potable water. These will be assessed at building consent stage.

No development is proposed in this application, however the applicant has demonstrated there are existing telecommunications services (landline and wireless) services available to the proposed lots if future development on the site does occur.

The site is located in the northern part of the Gore District and shares three common boundaries with Clutha District, being the north, east and west. Due to this the application has been referred to the territorial authority Clutha District Council (CDC) for comment. CDC has commented on the proposal and noted that the Mocking Bird Hill Road is located in Clutha District, and therefore maintained by CDC. CDC noted that Mocking Bird Hill Road is a gravel road, with low traffic volume. As the application has proposed no new development, nor any change in access points there was no need for further comment from CDC Roading Department. A water tank known as 'Tank 591' is located on Lot 2 and has 13 units for use. This tank is fed from a water line from CDC. If the owner of Lot 2 wishes to transfer or change the water units they will need to submit a new water application form to CDC. Any changes to this are subject to approval from the Rural Water Scheme Committee. Advice notes have been added to reflect the above matters in relation to the water tanks and any future access to current and future owners.

## **Land Use**

The subdivision will create new boundaries resulting in yard setback breaches for the existing farm buildings. Therefore, land use consent is sought for the yard non-compliances. The District Plan permits buildings associated with agriculture use within which animals are present to be located 50m from the boundaries. The existing deer shed on Lot 1 will be located 39m from the proposed east boundary of the site, being located within the 50m setback of the new west boundary line.

## **2. SITE DESCRIPTION**

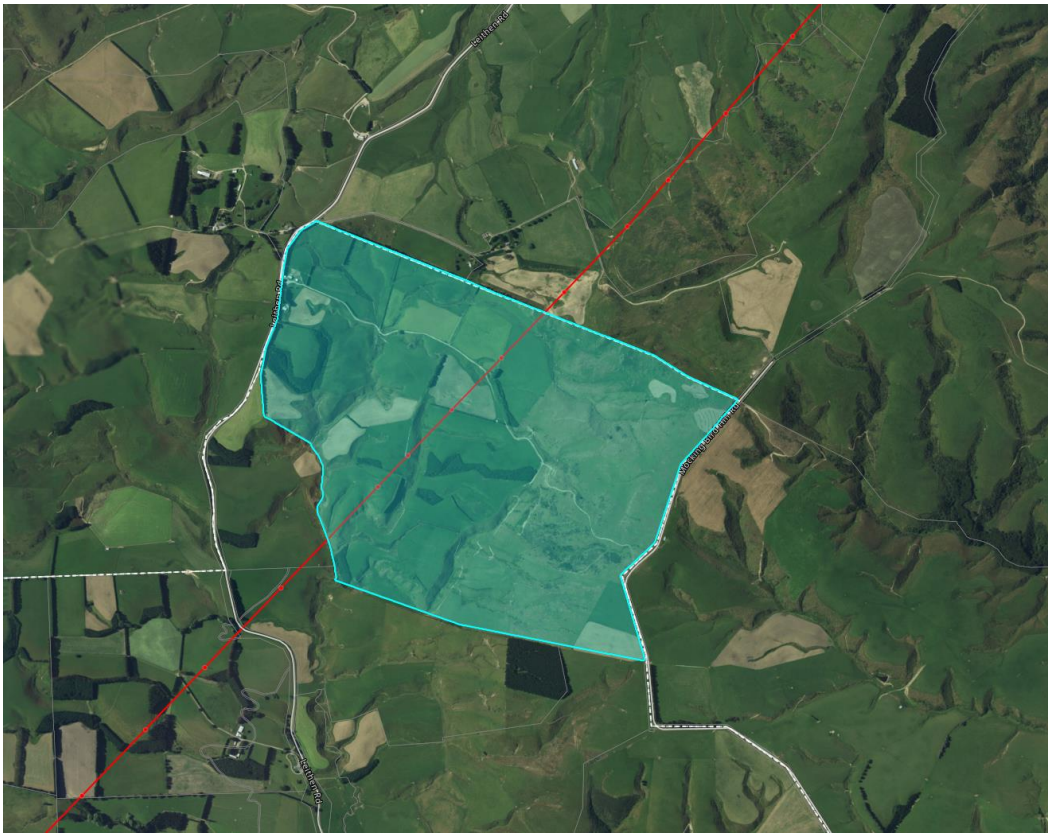
The site is legally described as Part Lot 2 DP 1142, contained within the Record of Title OTB2/13, being approximately 250 hectares in area. The site is located in the Rural Zone under the Operative District Plan with legal road frontage to Leithen Road and Mocking Bird Hill Road (located in the Clutha District). The site is located in the northern part of the Gore District and shares three common boundaries with Clutha District, being the north, east and west.

The topography of the site consists of undulating pastoral land carved with multiple steep terraces. The site has a transmission line INV-ROX-B-0194-Structure running through approximately the middle of the property. The existing residential dwelling on site maintains a distance of approximately 650m from this transmission line. The site contains an existing dwelling, and farm sheds but is otherwise vacant rural land utilised for rural activities.

Gore District Councils mapping system and Environment Southland flood mapping identifies the site is not subject to inundation. It identifies the liquefaction risk as 'Negligible' for the site.

The eastern proportion of the subject site has been identified as containing LUC 3 High Class Soils, with a small proportion of the west identified too.

The site is not identified in the Selected Land Use Site Register ('SLUS') as an actual or potentially contaminated site. The site is not identified as having any significant natural areas.



**Figure 2: Subject site highlighted in blue, with the transmission line (red) location running through the property.**

### 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 reasons:

- A **restricted discretionary** activity pursuant to Rule 8.10.4(b) to undertake a two-lot subdivision of the site, where each lot will exceed 2 hectares in area. Council's discretion is restricted to the following:
  - (i) suitability of the allotments for activities permitted within the zone in which they are located.*
  - (ii) suitability of the land for subdivision, including presence of any natural or other hazards, including contaminated land;*
  - (iii) ability to provide services (water, sewage, storm water, power and telecommunications);*
  - (iv) impacts on the council and other infrastructure services;*
  - (v) future use of the land and the need to consider any associated resource consents;*
  - (vi) within residential and rural areas lot size, dimensions and potential for future subdivision of the land;*

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

- A **restricted discretionary** activity pursuant to Rule 4.7A.1.4 as the proposal breaches standard 4.7A.1(2)(c)(ii) in regard to the existing deer shed (buildings that are associated with agriculture use within which animals are present) on proposed Lot 1. This is located within 50m of the resultant boundary with proposed Lot 2.

Council's discretion is restricted to these matters.

### 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.

### 3.3 Activity Status Summary

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

It is permitted to build structures on a rural zoned property that are associated with agriculture use within which animals are present, provided these structures are setback 50m from the legal boundaries. The existing deer shed, which is utilised for agriculture use will be located within 50m due to the subdivision establishing a new boundary to the west. This permitted baseline in relation agricultural buildings is considered of relevance and applied to the land use assessment below.

### Suitability of the allotments and future land use

The subdivision layout is consistent with what the District Plan enables in the Rural Zone. The proposed lots all meet the 2ha minimum specified area. The proposed lots are intended to retain the existing production farming land use. If residential activity was to occur on the lots in the future, the lots are all of a size and shape that can accommodate a future residential unit.

Due to the size of the lots meeting the 2ha minimum area, any future development is expected to comply with the performance standards in the District Plan for the Rural Zone and associated effects on the surrounding environment are considered to be less than minor. Future developments are required to adhere to the District Plan bulk and location standards, specifically boundary rules which ensure effects on the wider environment properties are no more 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 with respect to wastewater, stormwater, potable water, and electricity on site. These are all contained within Lot 1 and no changes are proposed to the existing servicing arrangement.

Proposed Lot 2 is intended to retain the existing farming land use and is not anticipated to have any domestic wastewater and potable water for the rural activities. However, as the lot will be over 2ha in area, a dwelling could be constructed in the future as a permitted activity. When development occurs on the site, these services are expected to be fully contained within the proposed boundaries. Given the size of the lots this is able to be achieved. 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.

In terms of telecommunication and power the application has provided confirmation that these are available for the proposed lots. The applicant has provided confirmation that OneNZ and Spark services 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. The application demonstrates that PowerNet have confirmed electricity is available for the proposed lots.

The applicant has provided a confirmation email from PowerNet (reference: Henna Chua, Planning Leader West, dated 23.05.2024) that the existing 11kV network servicing Leithen Road has enough capacity to supply to the additional lot provided that the transformer is upgraded. The applicant has volunteered a consent notice to upgrade the transformer when future development occurs on the site.

Overall, the proposal can be feasibly serviced at the time of development. Any potential adverse effects on the wider environment in relation to servicing will be no more than minor.

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

The Gore District Council's mapping system identifies a transmission line runs through the property. INV-ROX-B-0194-Structure runs approximately through the middle of the property. This is located more than 650m from the west boundary of proposed Lot 1 and the existing dwelling on site. Lot 2 is intended to remain for rural activities, however if any future structures including dwellings are to be built on Lot 2, the site is of a size and practical layout that would ensure that the future development is able to comply with New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). The

site is not identified by the mapping system and Environment Southland flood mapping as being subject to any inundation hazard. No other hazards have been identified on site and overall adverse effects from Natural Hazards and Other Hazards 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. 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. Given that the District Plan enables rural living on sites greater than 2 hectares, the effects are anticipated by the Plan. Overall, the adverse effects will be no more than minor.

Traffic Effects

The Council's Senior Roading Operations Officer, Mr 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 (the Bylaw) apply to this situation.

The site is located between Leithen Road boarding the west boundary and Mocking Bird Hill Road on the east boundary. Mocking Bird Hill Road is a boundary road with Clutha District Council and is maintained by agreement by Clutha District Council. The adjacent section of Leithen Road is an unsealed rural local access road. Leithen Road rises towards the north but becomes more undulating around the existing accesses to current farm buildings. There are two horizontal curves adjacent to the proposed subdivision. A 100kph speed restriction applies to Leithen Road. The approach curves and gradient govern the actual operating speed of this section of Leithen Road, which is assessed as being 60kph.

The application does not indicate any significant change in use at the existing accesses onto Leithen Road. The existing access to be utilised as a right of way will be retained, this meets the sight distance requirements and complies with the Bylaw. It is recommended that the accesses affected by any future building consent application be assessed at the time of that application for possible need for upgrading. Based on the comments provided by Mr Hasler, the adverse effects on the environment will be no more than minor.

Provisions of easements

A right of way is proposed over the existing access to Leithen Road to allow access to proposed Lot 1 and 2, 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 no more than minor.

**Land use – yard setback breach**

The adverse effects from the resultant breach if the deer shed being located within the 50m yard setback are established and internalised between the boundary of Lot 1 and Lot 2.

The non-compliant deer shed on Lot 1 is located within the permitted 50m yard setback required for buildings associated with animals in the Rural Zone pursuant to Rule 4.7 of the District Plan. The creation of the boundary between Lot 1 and Lot 2 results in the setback breach, provided when animals will be housed in the shed. The proposed yard non-compliance of the existing deer shed on



the new internal boundary will not result in any adverse effects on the wider environment, with potential effects being internal to the site(s) only. The adverse effects of reverse sensitivity effects on Lot 2 has been assessed below in the s95B assessment. Therefore, the adverse effects on the wider environment will be no more than minor.

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

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

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

- There are no special circumstances that warrant public notification.

#### **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.



**Figure 3: Neighbouring properties identified by orange dots to the subject site (highlighted blue)**

**279, 551, 560 Leithen Road and LOT 4 D P 1142 BLK VII GREENVALE SD**

The surrounding properties are farming properties, rural in nature. These properties are separated by the gravel roads Leithen Road or Mocking Bird Hill Road. The subdivision will maintain the rural nature and reflects a practical layout scheme separating the residential house and associated farming sheds from the larger proportion of the farm, staying consistent with the wider surrounding rural environment. The road verge of Leithen Road and Mocking Bird Hill Road provides separation of the

occupiers and owners of these properties to the proposed subdivision. The proposed subdivision will not result in any changes to the existing agriculture activities that occur on the site. Any future residential development is anticipated on lots larger than 2ha in the rural zone, where the District Plan has assessed the adverse effects. Any adverse effects experienced by persons residing on these lots will be less than minor.

### ***Internal boundary of Lot 1 and Lot 2***

Adverse effects resulting from the consequential land use breach from the creation of the legal boundary between Lot 1 and Lot 2, will be limited to proposed lots 1 and 2. Currently the rural land uses occur on the same site, however when the subdivision occurs this will result in a new boundary between the lots which in turn will create effects of the housing of animals activity on a neighbouring land use that could constitute a nuisance.

Animal housing facilities can potentially create noise and unpleasant odours, primarily during intermittent periods aligned with the agricultural calendar. The presence of animals and agricultural activities is anticipated in the Rural Zone, offering a lower level of amenity to residential living. It could reasonably be expected that future residents may complain about the noise and odour that may lead to difficulty in the ongoing operation for the established activity and this is commonly considered as reverse sensitivity effects. Lot 2 is intended to retain its existing rural activities, however it is noted that residential activity is permitted on the site and reverse sensitivity effects could therefore occur once the legal boundary is created between Lot 1 and Lot 2. Therefore, the infringed boundary between Lot 1 and Lot 2 where the deer shed is located within the permitted 50m setback will have rural activities occurring on either side. The effects of the deer shed being located within the yard breach will continue to read part of the surrounding environment.

The breach results when animals are present in the building utilised for rural activities. There are existing screening measures in place by existing vegetation. This will ensure any visual and amenity effects between the proposed lots are less than minor. The location of any future buildings to be built on either Lot 1 or Lot 2, the owners and occupiers will be aware of the location of the existing shed and the associated adverse effects of this. This can easily be identified by future property owners through due diligence. Overall, the adverse effects will be less than minor from the proposed setback breach on the owners and occupiers of proposed Lots 1 and 2. No other persons are considered to be adversely affected.

### ***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, Chapter 4A and Chapter 3 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 and 2 can accommodate a future rural residential activity or continue to operate farming activities as anticipated by the District Plan, while proposed Lot 1 will continue to be used for rural lifestyle activities. The proposed lots can be serviced appropriately at the time of development and provided with suitable accesses from Leithen Road.

Overall, the proposed subdivision is considered to be consistent with the objectives and policies of Chapter 8 of the Operative District Plan.

*Chapter 3 – Land Use Activities – A Framework*

*Objectives*

*(1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area.*

*(2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality.*

*Policies*

*(1) Establish zones that reflect the characteristics and amenity values of the area.*

*(2) Control the adverse effects of land use activities on the environment.*

The yard setback breach of the deer shed is a result of the subdivision creating boundaries to reflect the natural topography of the land and the most practical accessibility to the lots, utilising existing accesses. The breach of this has been assessed in the land use assessment, effects on the wider environment and neighbours will not be more than minor. The proposed yard non-compliances occur on the new internal boundary will not result in any adverse effects on the wider environment, with potential effects being internal to the site(s) only, where the adverse effects has been assessed under s95B. Overall, the proposal is considered to be consistent with the objectives and policies of Chapter 3 of the Operative District Plan.

**Chapter 4A - Natural Hazards**

*Objective (1) Ensure the public is aware of the likelihood and consequences of natural and man-made hazards within the District.*

*Policy (1) Promote public awareness of natural and man-made hazards.*

*Policy (3) Control activities and subdivision where this is necessary to avoid the adverse effects of natural and man-made hazards (refer to section 8 Subdivision of Land).*

The transmission towers located within the middle of the property is a man-made hazard to the owners and occupiers of Lot 2. This hazard can be made aware to the future occupiers and owners of the lot if any future residential dwelling is to be built and to be in accordance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). The subdivision will not result in boundaries close to this man-made hazard. Overall, the proposal is considered to be consistent with the objectives and policies of the Natural Hazards Chapter.

### **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 create an additional lot, enabling the opportunity for these two lots to continue to be used for rural farmland activities, while proposed Lot 1 can continue to be utilised for rural residential purposes. The site comprises a portion of Class 3 soils east of the site. These soils can continue to provide the rural based activities occurring on site and for small-scale rural activities following the subdivision if residential dwellings were to be built. Overall, it is considered that the proposal is aligned with the relevant objectives and policies in the RPS.

### **6.4 Other Matters**

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

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

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

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. In this case proposed Lot 1 and 2 can be provided with legal and suitable physical access via the existing access from Leithen Road as a right of way. The existing transmission lines located in proposed Lot 2 is of a sufficient distance from the new proposed boundaries, in conjunction the use of the land not proposed to change from the existing rural activities. The proposed subdivision is not likely to exacerbate the man-made hazard on the land.

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.

The proposed subdivision takes into account Part 2 of the RMA as the proposed lots created will enable the continuation of the existing rural activities occurring as well as provided for additional residential development in the Rural Zone, providing for social, economic and cultural wellbeing benefiting the greater Gore community. The site does not contain any matters of national importance under s6 and particular regard has been given to s7 in terms of terms of maintaining and enhancement of the existing rural environment. 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 two lot subdivision at 514 Leithen Road subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

### Consent Conditions

1. The subdivision must be undertaken in general accordance with the application made to the Council, reference SC24017 & LU24018, and the following plan:
  - *Proposed Subdivision of Pt Lot 2 DP 1142, 514 Leithen Road, Greenvale, drawn by TrueSouth Survey Services, dated 13 May 2024.*
2. Prior to Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved as necessary.
3. The consent holder must meet the costs for the preparation, review, and registration of any easement(s) on the relevant Record of Titles.
4. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, prepare an appropriately worded consent notice, in accordance with Section 221 of the Resource Management Act, for registration against the relevant Record of Title for Lot 2 to record that:
  - a. At the time of lodging a building consent for a residential unit, 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 residential unit, 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 residential unit, 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 and either a fixed-line telecommunication connection or an alternative service (wireless broadband or mobile data) needs to be installed at a cost to the owner at the time that the connection is applied for.
- e. At the time of this subdivision, a power connection was not provided. Should a future connection be sought the land holder at the time should be aware that the existing transformer (as at the date of this consent) will need to be upgraded in accordance with PowerNet requirements, in order to be able to supply sufficient power to Lot 2.

### Decision B - Land Use

Pursuant to Section 104C of the RMA, consent is granted to permit the existing deer shed to breach yard setbacks in accordance with the following plan:

- *Proposed Subdivision of Pt Lot 2 DP 1142, 514 Leithen Road, Greenvale, drawn by TrueSouth Survey Services, dated 13 May 2024.*

### Advice Notes

1. Any future development on Lots 1 and 2 will be subject to the requirements of the Gore District Council Subdivision and Land Development Bylaw 2019 and the Gore District Plan 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. If any future development occurs on Lot 2 and access is proposed from Mocking Bird Hill Road, located within the Clutha District Council, the owner will need to contact Clutha District Council for the relevant regulations and requirements in regards to the access and roading requirements.
4. If the occupiers and owners of Lot 2 wants to transfer water units from Tank 591 located on Lot 2 by Mocking Bird Hill Road. The occupier and owners of Lot 2 will need to contact Clutha District Council for the relevant application forms and information in regards to this.

### 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  
Planner

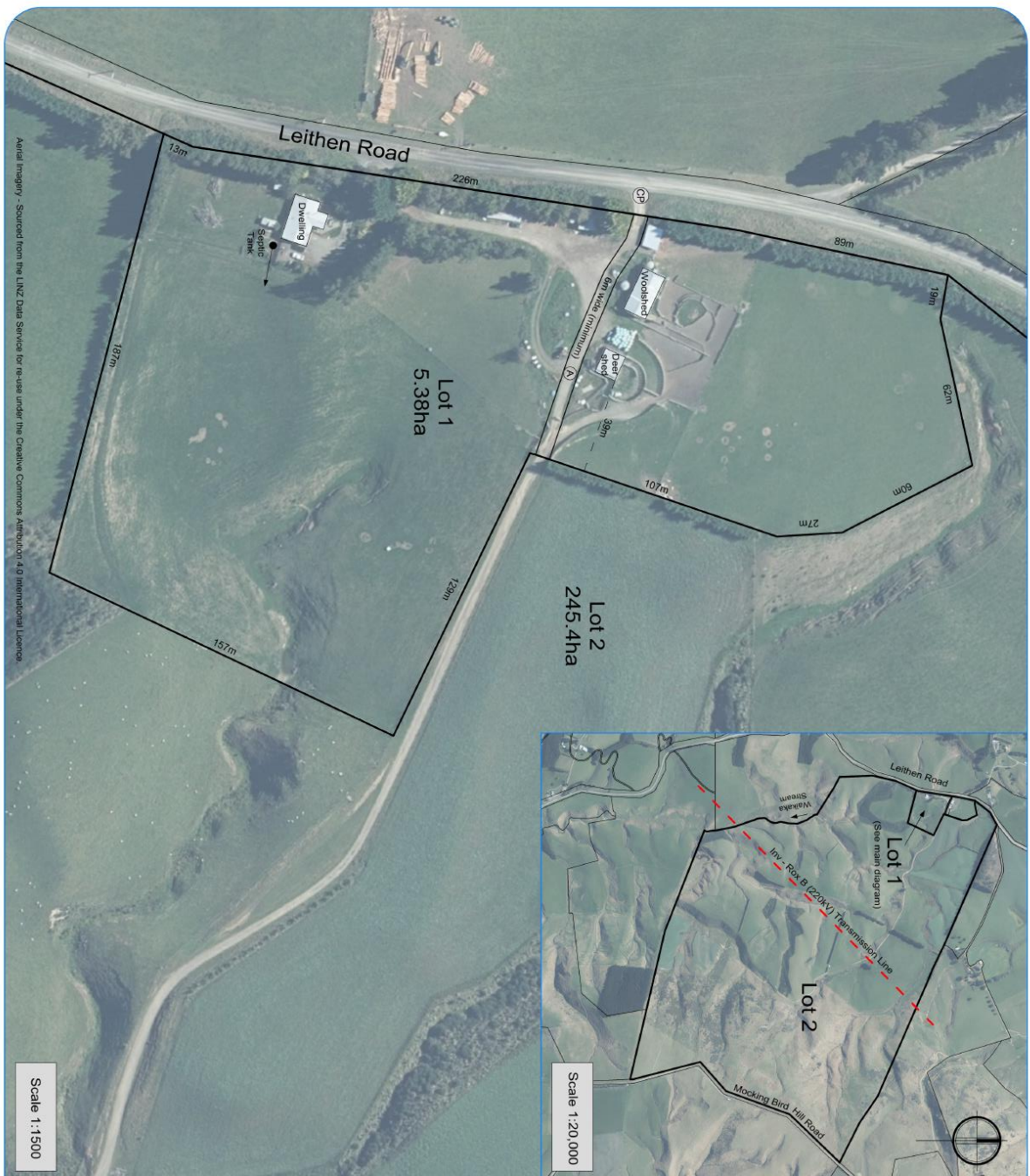
Decision made by



Werner Murray  
Delegate

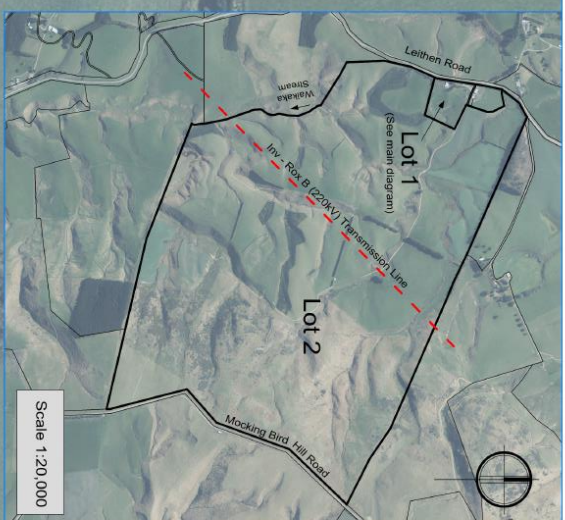
## Appendix A: Approved Plans

# APPENDIX A – APPROVED PLANS



Aerial Imagery - Sourced from the LINZ Data Services for re-use under the Creative Commons Attribution 4.0 International Licence.

Scale 1:1500



Scale 1:20,000

<p><b>Truesouth</b> SURVEY SERVICES LTD Phone 03 218 8030 Fax 03 218 0144 78 Deon Street, PO Box 534 Invercargill 9840 www.truesouth.co.nz</p>			
<p><b>Proposed Memorandum of Easements</b></p>			
Purpose	Shown	Servient Tenement (burdened land)	Dominant Tenement (beneficial land)
Right of Way	(A)	Lot 1 hereon	Lot 2 hereon
<p>Local Authority: Gore District Council Compared In: RT 0162/137 Total RT Area: 250.7829 ha</p> <p>If this plan is used as the basis of any Sales and Purchase Agreement, then it is done so on the condition that all areas and dimensions are approximate only and subject to survey.</p> <p>CLIENT: NZ Timber No. 1 Ltd Partnership DATE: 13 May 2024 PROJECT: 6838 REVISION: A - addition of ROW assessment</p>			
<h2>Scheme Plan</h2>			
<p>Proposed Subdivision of Pt Lot 2 DP 1142</p>			
<p>514 Leithen Road, Greenvale</p>			
<p>Scale: As shown @ A3</p>			
<p>© Truesouth Survey Services Ltd. 2023. Except as provided by the Copyright Act 1994, no part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means without the prior written permission of the copyright owner.</p>			

DATE PRINTED: 24/05/2024 10:12 AM