

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC24001 and LU24002
Applicant	Chas Crispin 1896 Ltd
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a 4 lot rural subdivision; and Land use consent for yard setback breach.
Location	157 Waikaka Valley Highway
Legal Description	Sec 12 Blk I Waikaka SD and Pt Sec 5, 6 & Sec 41 Block II Waikaka SD.
Activity Status	Restricted Discretionary
Decision Date	9 May 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 9 May 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 4 lot rural subdivision as follows:

Lot 1	Being 72 hectares. Proposed Lot 1 contains two existing farm accessory buildings, being 2 haybarns but is otherwise vacant rural land. It is proposed to retain its rural nature and activities. It is proposed Lot 1 will retain the two existing rural gateway crossings from Pinnacle Road. Primary access to Lot 1 is proposed via a ROW. This will be over Lot 3, in favour of Lot 1 and Lot 2 as shown as area A on the scheme plan. An existing farm access is proposed to be closed.
Lot 2	Being 5.16 hectares. Proposed Lot 2 comprises vacant rural land and has frontage to Pinnacle Road. Physical access is proposed via a proposed right of way over Lot 3 from Pinnacle Road. This is shown as area A on the scheme plan.
Lot 3	Being 88.14 hectares. Proposed Lot 3 contains existing farm accessory buildings but is otherwise vacant rural land. It is proposed to retain its rural nature and activities. Physical access to Lot 3 is proposed via an existing vehicle crossing from Waikaka Valley Highway via a right of way (easement B). Access is also proposed from Pinnacle Road via right of way (easement A).
Lot 4	Being 18.9 hectares. Proposed Lot 4 comprises a residential dwelling, accessory sheds and a farm accessory building being a woolshed. It will continue to be utilised as rural and rural lifestyle. Physical access to Lot 4 is proposed via two existing vehicle crossings from Waikaka Valley Highway. Primary access will be retained, whilst having a secondary access from the south existing vehicle access from Waikaka Valley Highway. This will be a right of way (ROW) over Lot 3, in favour of Lot 4. This is shown as area B on the scheme plan.

The proposed lots are intended to retain the existing production farming land use. The applicant does not propose to establish a new dwelling on these lots at this stage, though it is noted that one residential unit is permitted per rural zoned site. Proposed Lot 4 will retain the existing residential dwelling and rural lifestyle nature.



Figure 1: Proposed Scheme Plan

1.2 Access

The proposed subdivision is bounded to the east by Pinnacle Road and the west by Waikaka Valley Highway (SH90). SH90 is a primary collector road with a chip sealed surface, whilst Pinnacle Road is an unsealed rural local access road.

NZ Transport Agency Waka Kotahi (NZTA) has provided their written approval in regards to the proposed subdivision accessing SH90 from two existing crossing points. NZTA have provided conditions requiring the ROW for Lot 3 (shown as easement B on the scheme plan) to be upgraded with NZTA Diagram C standards outlined in the Planning Policy Manual (2007) and requested a consent notice to address the potential reverse sensitivity effects resulting from the operation of SH90. The Applicant has volunteered the conditions as part of their application.

1.3 Services

In terms of services, the site is located outside of the Council’s reticulated service network. Lot 4, which contains existing residential dwelling and accessory buildings will retain onsite services in terms of wastewater (via septic tank), potable water from the spring located on the lot and stormwater to ground. Onsite servicing will be provided for Lots 1 - 3 if future rural and residential development occurs with respect to wastewater, stormwater, and potable water. These will be assessed at building consent stage.

The existing sheds on Lot 1 and 3 dispose of stormwater to the ground. This will be retained and expected to be fully contained with the proposed boundaries.

Lots 1 and 2 have frontage to the Powernet overhead reticulated network along Pinnacle Road. Whilst Lot 3 has frontage to the Powernet overhead reticulated network along Pinnacle Road and SH90. Lot 4 has existing connections which are to be retained. The applicant has provided confirmation from Powernet that its network can be extended to provide additional connection supply to the proposed lots (reference email correspondence from Fraser Neil – Operations (Distributions) Project Manager, dated 20 December 2023).

The applicant has demonstrated there are existing telecommunications services (landline and wireless) services available to the proposed lots.

1.4 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 woolshed on proposed Lot 4 will be 19m from the west boundary and 9m from the south boundary once the subdivision occurs. In addition the covered yards on Lot 3 will be 1.2m to the internal boundary of the ROW (area B). Both of these buildings will be located within this 50m setback on the new boundary line.

2. SITE DESCRIPTION



Figure 2: Aerial Image of subject site outlined in blue (Source: GDC ARCGIS map)

The subject site is made up of four rural land parcels; legally described as Part Section 12 Block I Waikaka SD, Part Section 5 Block II Waikaka SD and Part Section 6 Block II Waikaka SD, which are

currently held under the same Record of Title SL230/27 and Section 41 Block II Waikaka SD held under Record of Title SLB3/827 (Refer to Figure 2).

The site is located in the Rural Zone under the Operative District Plan. The site is approximately 184.6 hectares located in the low foot hill country consisting of undulating land. The proposed subdivision is located between Pinnacle Road and SH90. The section of Pinnacle Road is gravel that borders the boundary of the site whilst SH90 is a primary collector road.

The section of SH90 adjacent to the proposed subdivision (lots 3 and 4) has a flat vertical alignment and contains a horizontal curve north of the access to proposed Lot 4. This curve has an 85kph curve advisory sign in place.

Pinnacle Road increases in elevation gradually to the north for the first 400m and then steeply inclines for the next 300m. The road is relatively straight apart from two corners located along the northwestern boundary of the site. A 100kph speed restriction applies to both sections of road. Operating speeds of traffic are reduced by the existing curves and gravel nature of the road.

The land descends from the west of Pinnacle Road to the east towards SH90, which the site borders. The site comprises of undulating farmland utilised for pastoral grazing and arable cropping activity. The site consists of a residential dwelling, accessory building and multiple farm buildings including a woolshed and covered yards.

The site is located approximately 6km to the north-east of the Gore Township. The immediate surrounding area is predominately rural in character and use, consisting of a mixture of large and medium sized farming lots. The surrounding area of Pinnacle Road consists of larger residential lifestyle lots that have been subdivided intended for rural residential activity. This reflects the nature of the surrounding environment being in close proximity to the urban area of East Gore.

Gore District Councils mapping system and Environment Southland flood mapping identifies portion of the subject site as subject to actual or potential flooding. It identifies the liquefaction risk as 'Low' within the eastern portion of Lot 3. The liquefaction risk is 'Negligible' for the remainder of the site.

Majority of the subject site has been identified as containing LUC 3 High Class Soils. A portion of the site contains LU 2 High Class Soils in the eastern portion of the site (see Figure 3).

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.

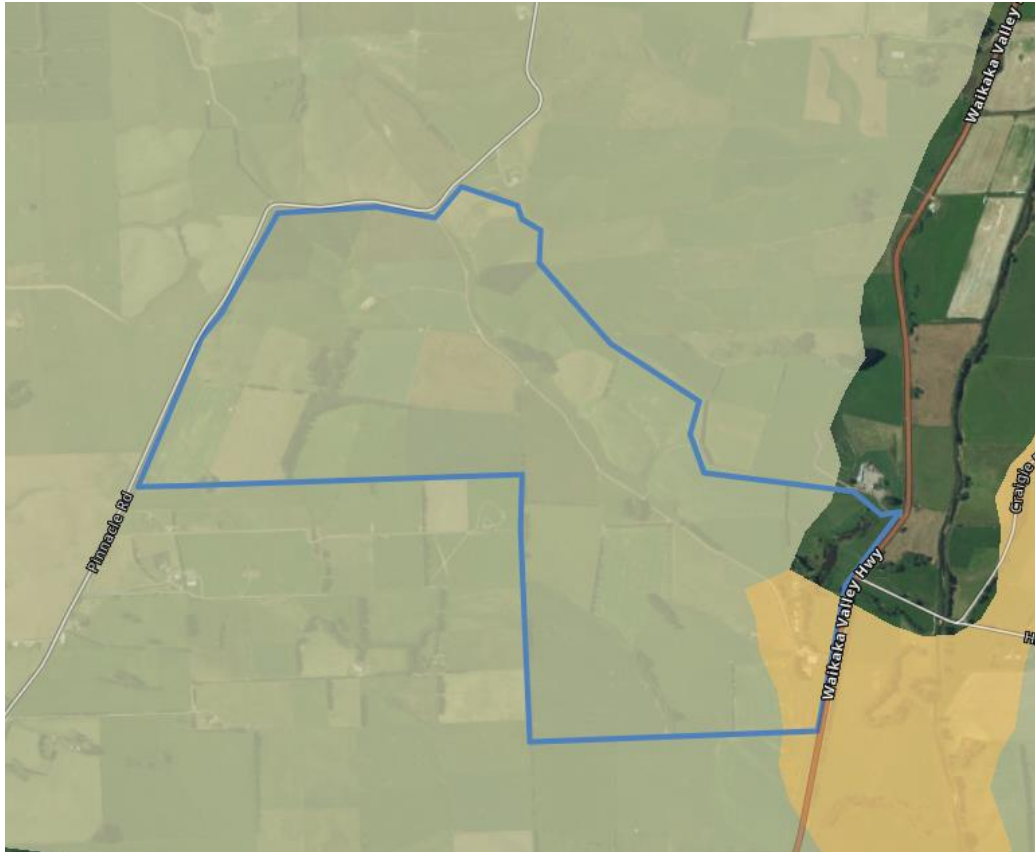


Figure 3: High Class Soils Overlay over the subject site. Green identifies LUC 3 and Yellow identifies LUC 2 (Source: GDC ARCGIS Map)

3. ACTIVITY STATUS

3.1 Gore District Plan

The site is zoned Rural in the Gore District Plan and the proposed 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 four-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 an existing woolshed and covered yards (buildings that are associated with agriculture use within which animals are present) on Lot 4 and Lot 3. Both of which are located within 50m of the respective boundaries.

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 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)
Waka Kotahi New Zealand Transport Agency	State Highway 90 (Waikaka Valley Highway)

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 woolshed and covered yards, which are utilised for agriculture use will be located within 50m due to the subdivision establishing new boundaries. This permitted baseline in relation to yard setbacks 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 and neighbouring properties are less than minor.

Suitability of land for subdivision – Natural Hazards and other Hazards

The Gore District Council's mapping system identifies a small portion of the subject site as subject to actual or potential flooding hazard in the north eastern section of the site. This overlays an existing wetland on Lot 4, which is utilised for grazing. Lot 4 has existing buildings that consist of a residential dwelling, accessory buildings, and farm buildings. These are all located outside of the mapped identified flood hazard. No further built form is proposed. Given the use of the land is not changing, and no additional built form is proposed, the effects of this hazard on the wider environment will be less than minor.

The Council's mapping system, which sources information from Environment Southland, identifies majority of the site's liquefaction risk as negligible. A small section in the north-east section, adjacent to SH90 is identified as being subject to 'low' liquefaction. This is a small section across proposed Lot 3 and 4. The land use is not proposed to change on this proposed lot from rural purposes and farm buildings are existing. Any future potential buildings proposed to be built will have sufficient space on the proposed lots to locate outside of any liquefaction risk area. Given the use of the land is not changing, and no additional built form is proposed, the effects of this hazard on the wider environment will be less than minor.

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

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 4 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 Lot 4 and no changes are proposed to the existing servicing arrangement.

Proposed Lots 1, 2 and 3 are intended to retain the existing farming land use, where stormwater is disposed on site. It is not anticipated to have any domestic wastewater and potable water for the rural activities. However, these lots are over 2ha in area and 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.

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 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 any areas shown as having identified ecological or cultural values. The existing wetland located on Lot 4 is a man-made wetland formed and maintained by the applicants. It is not identified as a significant wetland or sensitive waterbody by Environment Southland. The proposed subdivision will alter the landscape of the site with the introduction of rural lifestyle residential development in the future on the proposed lots. However, Lot 4 already contains existing residential activity and given the natural hazards associated with this area of land any further development is less than likely to occur.

Given that the District Plan enables rural living on sites greater than 2 hectares, the effects are anticipated by the Plan.

Effects on traffic

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

It was observed that section of SH90 bordering the east of the proposed subdivision is a primary collector road, with chip seal surface. The road is relatively straight with a horizontal curve north of the property with an 85kph curve speed advisory sign. A 100kph speed restriction applies.

The section of Pinnacle Road adjacent to the west of the proposed subdivision is an unsealed rural local access road. This gradually inclines towards the north and is relatively straight and flattens out for 700m until it rises again. North of the property boundary of proposed Lot 1 is a horizontal curve towards the east, followed by a straight stretch that turns into a sharp curve at the beginning of Lot 2. A 100kph speed restriction applies to the road but due to the unsealed nature of the road and corners it results in a lower estimated operating speed.

It was assessed that the existing farm access via a rural gateway at RP2051 from Pinnacle Road had poor visibility from the south and the access was too steep to be in accordance with the Bylaw (see email from Murray Hasler, dated 26.01.2024). It was recommended that this access be permanently closed. This is accepted by the applicant and reflected on the revised scheme plan provided 31.01.2024. The other two existing farm crossing accesses to Lot 1 meet the sight distance requirements and will be retained for farm access from Pinnacle Road.

It is proposed that the existing northern access from Pinnacle Road will provide access to proposed Lots 1, 2 and 3. The sight distances at the existing vehicle crossing location meets the requirements of the Bylaw. This will be as a ROW, in favour of Lot 1 and 2 over Lot 3 shown as area A on the scheme plan. As this access services more than 2 lots it will need to be upgraded in accordance with Diagram R09-2 'Primary Commercial Access' of the Bylaw. This has been accepted by the applicant.

The existing access south onto SH90 will provide access to proposed Lots 3 and 4. This will be by a ROW over Lot 3 in favour of Lot 4 shown as area B on the scheme plan. This access is sealed and generally complies with the requirements of Diagram R09-1 contained in the Bylaw. The sight distances at the existing vehicle crossing location meets the requirements contained in Table 3.3B of the Bylaw.

NZ Transport Agency Waka Kotahi (NZTA) have requested that the ROW from SH90, for Lot 3 (shown as easement B on the scheme plan) is to be upgraded with NZTA Diagram C standards outlined in the Planning Policy Manual (2007). This is to be completed to the satisfaction of the NZTA Network Manager. A consent notice to address the potential reverse sensitivity effects resulting from the operation of SH90 is to be placed on Lots 3 and 4 titles. The applicant has volunteered these conditions.

The existing access north of Lot 4 will be retained. This meets the sight distance requirements and complies with the Bylaw.

Additional provision for pedestrians and cyclists is not considered necessary given the rural location of the site.

Mr Hasler raises concerns that the future residential activity on Lot 1 or Lot 2 close to Pinnacle Road may experience adverse effects from dust from Pinnacle Road. Mr. Hasler has recommended placing a consent notice on the titles of lots near Pinnacle Road, requiring future owners planning residential construction within 100m of the road, to install a 100m dust suppression seal along Pinnacle Road at their cost. This is to be done in accordance with Council's Dust Suppression Policy. This consent notice has been accepted by the Applicant as forming part of the proposal.

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

Provisions of easements

A right of way is proposed over the existing access to Pinnacle Road to allow access to proposed Lot 1, Lot 2, and Lot 3, 2 as indicated by area A on the proposed scheme plan.

A right of way is proposed over the existing access to SH90 to allow access to proposed Lot 3 and 4. This is in favour of Lot 4 as indicated by area B on the proposed scheme plan.

A no build consent notice is proposed on Lot 4 adjacent to the south boundary to ensure that no building can be built within 12m of the covered yards on Lot 3. This will be 2.8 wide for the length of the south boundary as indicated by area C 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.

Land use – yard setback breach

The non-compliant woolshed on Lot 4 and covered yards on Lot 3 are 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.

Woolshed

The non-compliant woolshed on proposed Lot 4 is located 19m from the west boundary and 9m from the south boundary of proposed Lot 3 once the subdivision occurs. The creation of the boundary between them results in the setback breach if animals are housed in the shed. The proposed yard non-compliance of the existing woolshed 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 yard breach has existing screening measures in place by existing vegetation. This will ensure any privacy and amenity effects between the proposed lots are less than minor.

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. The surrounding area of Lot 3 consists of farm accessory buildings creating a farm work yard, it is also anticipated that rural activities will occur on the site. The effects of the woolshed being located within the yard breach will continue to read part of the surrounding environment.

Covered Yards

The non-compliant covered yards are located 9.2m from the common boundary shared with Lot 4 and 1.2m to the internal boundary of the ROW (area B). The creation of the boundary between them results in the setback breach if animals are housed in the shed. The proposed yard non-compliance of the existing woolshed 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. Proposed Lot 4 is intended to retain its rural nature and consists of a woolshed which is continued to be utilised.

The covered yards have been recognised as having 100% unprotected walls, due to no side walls by the Building Control Officer. A structure must meet the 12m separation distance from another building to achieve compliance under the *Protection from Fire Clause of the Building Code – C/AZ2, table 5.2c*. The applicant has proposed to include a no build area detailed in a consent notice on the title of Lot 4 to provide sufficient clearance for fire protection purposes from the covered yards in Lot 3. This is shown on the scheme plan as Area C. It will be 2.8m in width along this south boundary to ensure that the 12m separation distance is achieved from the covered yards to any other structure on Lot 4.

If any future buildings are to be built on either Lot 3 or Lot 4 then the existing covered yards can be easily identified by future property owners through due diligence. In summary, the nuisances and reverse sensitivity effects are considered to be 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.

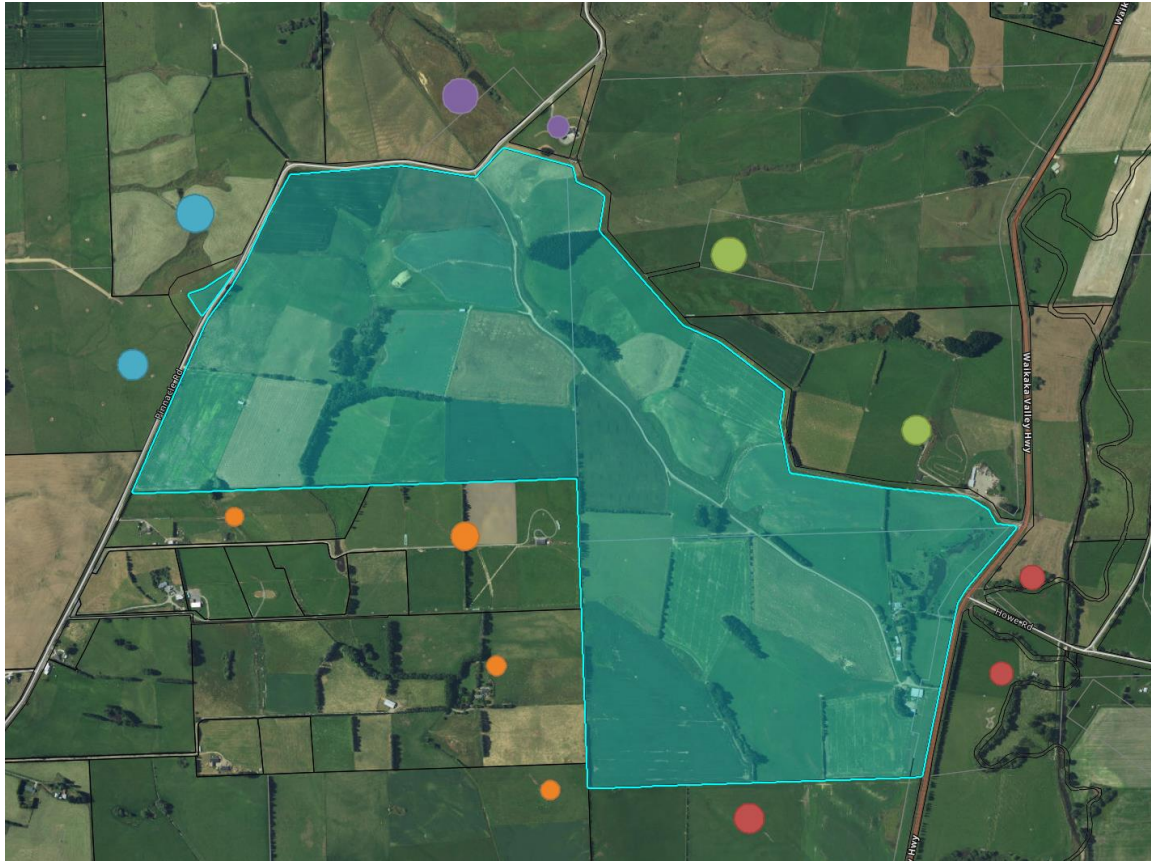


Figure 4: The neighbouring properties identified by coloured dots (Source GDC ARCGIS Maps)

110 Pinnacle Road (Lot 10 DP 586954) & 52 Pinnacle Road (Lot 1 DP 526404) & 126 Pinnacle Road (Lot 1 DP 6383) & Lot 1 DP 1293 (orange dots)

These lots are located southwest of the subject site and share a common boundary with the subject site. These lots are of a rural/residential lifestyle nature containing a residential dwelling and accessory buildings and small rural paddocks. The closest residential dwelling located to the common boundary is at 110 Pinnacle Road, being 95m. The other residential dwellings on the lots are located more than 100m from the common boundaries, being sufficient setback distances than required by the District Plan in the rural zone. Lot 1 DP 1293 although contains a residential dwelling, the predominant activity remains rural.

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 sites of this. Any adverse effects experienced by persons residing on these lots will be less than minor.

308 Pinnacle Road (Lot 1 DP 12271 & Part Section 1A Block I Waikaka & Sec 19 Blk I Waikaka SD) (purple dots)

The subdivision will maintain the rural nature, staying consistent with the wider surrounding rural environment. The road verge of Pinnacle Road provides a separation of the occupiers and owners of these properties to the proposed subdivision. Any adverse effects on the rural character and amenity experienced by persons residing on these properties will be less than minor.

Sec 5 Blk I Waikaka SD and Lot 3 DP 406600 and Part Section 7 Block I Waikaka SD (*blue dots*)

These properties are located west of the proposed subdivision and are utilised for farming activities. These properties are separated from the proposed subdivision by Pinnacle Road. Due to the undulating topography of the landscape these properties fall in elevation from the road, reducing the visual view of the subject site. The proposed subdivision creates lots meeting the standard for minimum lot size in the Rural Zone. The District Plan has therefore anticipated the adverse effects of this. Any adverse effects on the owners and occupiers of these properties will be less than minor.

Part Section 4 Blk II Waikaka SD & Section 33 Blk II Waikaka SD & 187 Waikaka Valley Highway (Part Section 5 Block II Waikaka) (*green dots*)

These properties are located north of the subject site. They are both of rural nature.

187 Waikaka Valley Highway consists of a residential unit on a lifestyle block of 29ha which also contains a contracting yard. The proposed subdivision meets the minimum lot sizes of the Rural Zone. Existing amenity values will not be altered beyond what is anticipated under the District Plan. Any adverse effects upon the owners and occupiers of these properties are considered to be less than minor.

Part Lot 1 DP 526 & Part Lot 6 DP 5900 & Lot 1 DP 5900 (*red dots*)

These properties are held under the same ownership and span south and east of the proposed subdivision. The lot south of the proposed subdivision is rural in nature and utilised for rural activities. The land east of the subject site is separated from the subdivision by SH90, a two lane state highway connecting route. The proposed subdivision will create three additional lots utilised for rural and rural lifestyle activities, maintaining the surrounding environment that consists of both. As such, the adverse effects of the proposal will be less than minor on the owner and occupiers of these properties.

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 – Subdivision of Land of the District Plan.

Chapter 8 - Subdivision of Land

Objectives

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

Policies

- (1) Control the subdivision of all land.*
- (2) Avoid the adverse effects of subdivision on the functioning of existing services, infrastructure and roading.*

(3) Require the works associated with subdivision to be carried out in conformity with Council's standards.

(5) Avoid any off-site effects of development of subdivided land.

(9) Require land development to be undertaken in compliance with the Gore District Council Subdivision and Land Development Bylaw 2011.

(10) Have regard to the potential for the land subject to any subdivision consent, and other land in the locality to be further subdivided in the future.

(13) Have regard to the potential impacts arising from the subdivision and future use of land on water quality, including groundwater.

The proposed subdivision is consistent with the objectives and policies in Chapter 8. The size and layout of the allotments are practical and appropriate for the Rural zone. Proposed Lots 1, 2, and 3 can accommodate a future rural residential activity or continue to operate farming activities, while proposed Lot 4 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. Proposed Lot 3 and 4 can be serviced with existing accesses from SH90 whilst proposed Lots 1, 2 and 3 can be serviced appropriately and provided with suitable accesses via an existing vehicle crossing from Pinnacle Road and that will be upgraded in accordance with the Bylaw.

Overall, the proposed subdivision is considered to be consistent with the objectives and policies 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 woolshed and covered yards is a result of the subdivision creating boundaries to reflect 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 environment and neighbours will not be more than minor. Although the buildings breach the setback required, the applicant has recommended a no build consent notice to ensure that the covered yards on Lot 3 will meet the fire safety requirements. 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. Overall, the proposal is considered to be consistent with the objectives and policies of the District Plan.

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 27 November 2023. As the rules that have immediate legal effect are not relevant to this proposal, it is unnecessary to apply any weighting to the Proposed District Plan at present time.

National Policy Statement – Highly Productive Land 2022 (NPS – HPL)

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

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 four lots to be created from two existing titles, enabling the opportunity for Lots 1-3 to continue to be used for rural farmland activities, while proposed Lot 4 can continue to be utilised for rural residential purposes. The site comprises majority of Class 3 soils and a portion of Class 2 soils in the north-east corner 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.

For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of-

- (a) the likelihood of natural hazards occurring (whether individually or in combination); and
- (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

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

In this case, part of proposed Lot 4 is within a flood hazard, an area that is subject to actual or potential flooding. While the subject site is subject to an inundation hazard, this overlay is a small area on Lot 1, where a wetland has been created to act as a sediment trap and is used in conjunction with grazing of animals. In addition to this the existing residential dwelling located on proposed lot 4 is located outside of this hazard on a natural rise. The other proposed lots are not identified to have this inundation overlay. The proposed subdivision of the land is therefore unlikely to accelerate material damage from natural hazards either onsite or off.

Proposed Lots 1, 2, 3 and 4 can be provided with legal and suitable physical access via the existing vehicle crossings to Pinnacle Road or SH90 or by the upgraded vehicle crossing from Pinnacle Road.

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 s 6 and particular regard has been given to s 7 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 4 lot subdivision to create a four-lot subdivision of 157 Waikaka Valley subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Decision A – Subdivision

1. The subdivision must be undertaken in general accordance with the application made to the Council, reference SC24001 & LU24002, and the further information received 30 January 2024 and the following plan:
 - *Southern Horizons, Lots 1 to 4 Being Subdivision of Pt Sec 12 Blk I Waikaka SD and Pt Sec's 5,6 and Sec 41 Block II Waikaka SD, Rev 1, 30-01-2024.*

This plan is attached at Appendix A

2. Prior to Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved as necessary.
3. The consent holder must meet the costs for the preparation, review, and registration of any easement(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, the consent holder, shall, to the satisfaction of the Chief Executive of the Gore District Council, upgrade the existing vehicle access on Pinnacle Road to serve Lots 1, 2 and 3 in accordance with the Diagram R09-2 Primary Commercial Access Standard in the Gore District Council Subdivision and Land Development Bylaw 2019.
5. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, the consent holder, shall, to the satisfaction of the New Zealand Transport Agency (NZTA) Network Manager:
 - a. Vehicle crossing to proposed lot 3 (i.e, Right of way B) shall be upgraded in accordance with the NZ Transport Agency Diagram C Standard as outlined in the Planning Policy Manual (2007) and to the satisfaction of the NZ Transport Agency Network Manager.
 - b. The Consent Holder shall provide to Council, correspondence from the NZ Transport Agency confirming that works in the State Highway, including the upgrading the vehicle crossing on Lot 3 have been constructed in accordance with NZTA's Type C standard.
6. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be drafted for registration against the relevant Record of Title for Lots 1 – 3 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.

7. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be drafted for registration against the relevant Record of Title for Lots 1 and 2 to record that:
 - a. Prior to the issue of the Building Consent Certificate of Completion for the construction of a residential dwelling within 100m of the edge of gravel along Pinnacle Road, the owner shall arrange for the construction of a 100m long section of dust suppression seal, in order to mitigate dust effects from Pinnacle Road, and this shall be maintained from time to time by the owner. The dust suppression seal shall match the type of seal the Council constructs under its Dust Suppression Policy, however the owner shall be responsible for the whole cost of constructing the dust suppression seal.
8. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be issued and registered against the relevant Record of Title for Lot 3 - 4 to record that:
 - a. Any new dwelling or other new noise sensitive location on the site in or partly within 100m of the edge of State Highway 90 carriageway must be designed, constructed, and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.
9. Prior to certification of the subdivision, pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be drafted for registration against the relevant Record of Title for Lot 4 to record that:
 - a. No structures are permitted to be constructed within the no build area labelled 'C' as shown on plan "*Southern Horizons, Lots 1 to 4 Being Subdivision of Pt Sec 12 Blk I Waikaka SD and Pt Sec's 5,6 and Sec 41 Block II Waikaka SD, Rev 1, 30-01-2024.*"

Decision B - Land Use

Pursuant to Section 104C of the RMA, consent is granted to permit the existing woolshed and covered yards to breach yard setbacks.

Advice Notes

1. Any future development on Lots 1 to 4 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.

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



Werner Murray
Delegate

Appendix A: Approved Plans

APPENDIX A – APPROVED PLANS



Schedule of Easements

Purpose	Shown	Burdened Land	Benefitted Land
R.O.W. & Services	A	3	1 & 2
	B	3	4

Lots 1 to 4 Being Subdivision of Pt Sec 12, Blk I Waikaka SD and Pt Sec's 5, 6 & Sec 41 Block II Waikaka SD
157 Waikaka Valley Highway
 Project # - 23050
 Client - Char Crispin (199) Ltd
 Datum - NZ89
 Scale - 1:7500 @ A3
 Plot # - 01

North Arrow

Revision Details

Rev	Date	Revision Details
0	13/12/23	For consent
1	30/01/24	adjustments for s22 response

Surveyed
 Drawn
 Designed

NOTE:
 - Dimensions shown are in metres unless otherwise stated.
 - All dimensions are to be taken from the centre of the road unless otherwise stated.
 - The boundary lines shown are preliminary only. Final boundaries will be determined by a survey.
 - Any aerial imagery shown are sourced from LINZ Data Service unless otherwise stated.

SOUTHERN HORIZONS
 SURVEYING & RESOURCE MANAGEMENT
 Gore • Ph: 027 466 2596 • hamish@southernhorizons.co.nz

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