

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	SC 24048
<b>Applicant</b>	Brian Andrew & Dianne Carolyn Erickson
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a boundary adjustment between two titles.
<b>Location</b>	0 Greenvale Road, Waikaka
<b>Legal Description</b>	Part Section 71 & Sections 72 & 73 Block XIV Chatton Survey District
<b>Activity Status</b>	Controlled
<b>Decision Date</b>	24 October 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 24 October 2024 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104A 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

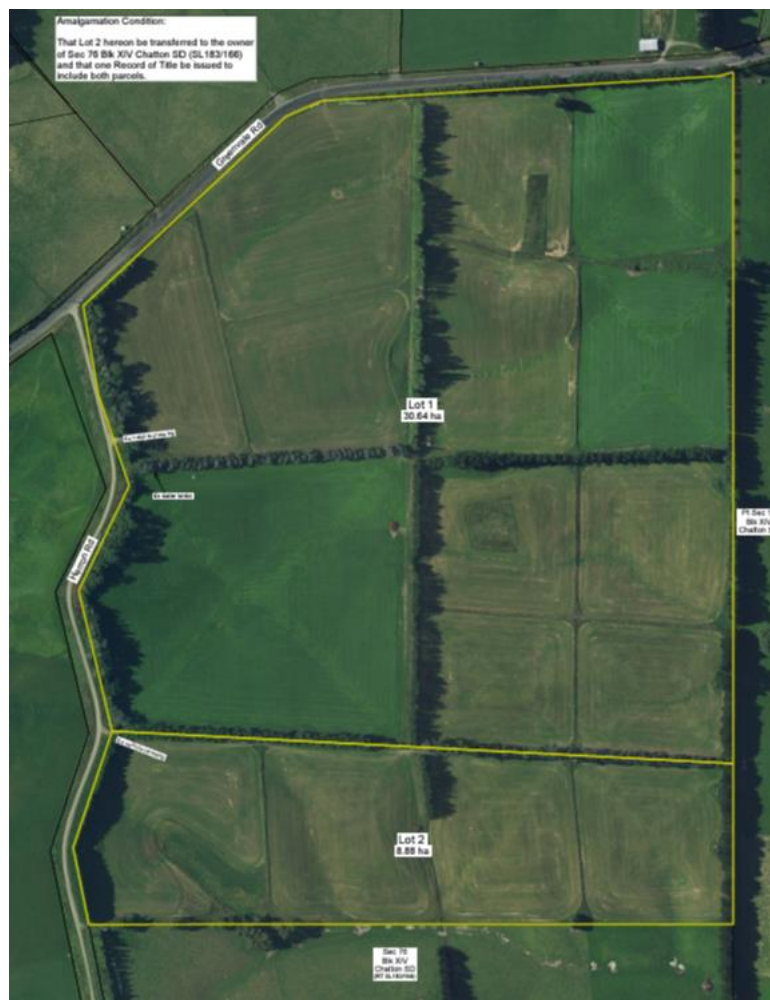
The applicant seeks to undertake a boundary adjustment at 0 Greenvale Road, Waikaka between Part Section 71 - 73 Block XIV Chatton Survey District (SL178/294) and Sec 76 Blk XIV Chatton SD (SL183/166).

The proposal will create one rural lot and amalgamate it with the adjoining land for an effective boundary adjustment. Sec 76 Blk XIV Chatton SD is the adjoining property on the south of Part Section 71 - 73 Block XIV Chatton Survey.

The total area of land to be transferred is 8.88 hectares. The resultant Lot sizes will be 30.64 hectares and 143 hectares. No new titles will be created as a result of the subdivision.

Both Lots are currently vacant of buildings and utilised for agricultural activities. No physical modifications are proposed to the site under this application. Accesses to the sites are existing. No additional access points are proposed.

The proposal is shown on a subdivision plan prepared by Southern Horizons (refer to Figure 1).



**Figure 1: Proposed Boundary Adjustment of Part Section 71 & Sections 72 & 73 Block XIV Chatton Survey District**

The following amalgamation condition is proposed and has been approved by LINZ as practicable:

“That Lot 2 hereon be transferred to the owner of Sec 76 Blk XIV Chatton SD (SL183/166) and that one Record of Title be issued to include both parcels.”

## 2. SITE DESCRIPTION

The application sites are adjoining properties which are vacant and currently utilised for agricultural purposes.

The subject land is located in the Rural Zone and the surrounding environment is comprised of rural activities. The sites have frontage to Herron Road and Greenvale Road. The sites have existing vehicle accesses, which will be retained.

The Gore District Council’s mapping system identifies the allotments as being subject to Low Liquefaction Risk. The site is free of any flood hazards. The soils on the site are classified as Land Use Capability Class 3. The allotments are not identified in the Selected Land Use Sites Register (‘SLUS’) as actually or potentially contaminated sites. There are no other known natural features and landscapes or historic heritage features on the properties. There are no high voltage powerlines located in the immediate vicinity of the allotments.

## 3. ACTIVITY STATUS

### 3.1 Gore District Plan

The site is zoned Rural in the Gore District Plan and the proposed activity is a **controlled** activity resource consent pursuant to *Rule 8.10 (2)(d)(i)(a)* for *boundary adjustments creating lots greater than 2 hectares in the Rural Zone*. Council’s control is with respect to the following:

- a) *The suitability of the allotments for activities permitted within the zone in which they are located.*
- b) *Granting of easements;*
- c) *The design, location, construction and alignment of any access or road;*
- d) *The location, design and construction of infrastructure;*
- e) *Ensuring that the minimum environmental standards specified in this Plan can be met on any allotment that contains an existing building.*
- f) *The protection of any heritage or archaeological values on the site.*
- g) *Any adverse effects on natural features and landscapes, ecological or cultural values.*

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

The applicant has advised that they are not aware of the presence of any contaminants that could be hazardous to human health on proposed Lot 1. They are specifically not aware of any historical sheep dips on Lots 1 & 2.

The land will further continue to be utilised for agricultural use.

Based on the above, the piece of land to which this application relates is not a HAIL site, and therefore the NES-CS does not apply.

## 4. NOTIFICATION ASSESSMENT

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

### 4.1 Public notification – Section 95A

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

#### Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

#### Step 2 – Public notification is precluded

While there are no rules in a plan or National Environmental Standard that preclude notification; public notification is precluded as follows:

- The application is a controlled activity.

Therefore, public notification is precluded under step 2. Go to step 4.

#### 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*

No persons have given written approval as part of this resource consent application.

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.

No person is considered to be affected by the proposal as potential effects will be less than minor for the following reasons:

- No physical works are proposed and there would be no change to the current visual or rural amenity. The proposed subdivision will not result in any changes to the existing land use activities on the site.

- The proposal is purely legal and hence indiscernible in the host natural and built environment in terms of resultant physical and amenity effects.
- The proposal does not involve any physical changes to the site or create additional development rights. There is an existing tree line along the proposed boundary of Lot 2 and as such the proposal will not result in physical change from the land's current appearance. Any potential effects are considered to be less than minor.

#### *Conclusions: Effects on Persons*

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

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

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

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

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

## **6. SECTION 104 ASSESSMENT**

### **6.1 Matters for consideration**

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

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

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

### **6.2 Effects on the Environment**

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

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, all boundary adjustments require consent, and as such there is no permitted baseline.

The Council's assessment is limited to the matters of control, being:

- a) *The suitability of the allotments for activities permitted within the zone in which they are located.*
- b) *Granting of easements;*
- c) *The design, location, construction and alignment of any access or road;*
- d) *The location, design and construction of infrastructure;*
- e) *Ensuring that the minimum environmental standards specified in this Plan can be met on any allotment that contains an existing building.*
- f) *The protection of any heritage or archaeological values on the site.*
- g) *Any adverse effects on natural features and landscapes, ecological or cultural values.*

The proposal is a simple boundary adjustment to facilitate a sale of agricultural land.

The proposed layout is practical as boundaries are proposed along existing tree lines. There is no change of land use or development proposed in relation to the subdivision. The sites will utilise existing access points, and as a result of the subdivision no new access or road construction is required.

There are no known heritage, archaeology, ecology or cultural values known to be associated with the allotments and the allotments are not classified as a natural feature or landscape.

As a result of the boundary adjustment, the lots will remain unserviced for domestic purposes. Onsite servicing provision is considered possible however is not necessary to assess further given the size of the lots and the existing agricultural land use undertaken on site.

The proposal does not involve a change of land use or enable additional development in relation to the proposed boundary adjustment.

Overall, it is considered that any adverse effects from the proposed boundary adjustment will be less than minor and acceptable.

### **6.3 Relevant Provisions**

#### **District Plan**

The relevant objective and policies are contained within Chapter 8 - Subdivision of Land of the District Plan. The relevant objective and policies seek that the size and shape of allotments are appropriate for the location and future land use, and that access and servicing can meet Council's standards. The proposal is considered to meet the relevant objectives and policies of the Gore District Plan.

## **National Policy Statement for Highly Productive Land (NPS-HPL)**

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

### **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, the site is not subject to any known natural hazard risk. The proposed lot will retain the existing accessways, which will continue to service the lots. 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 will promote sustainable management of natural and physical resources, facilitating a sale of agricultural land.

Part 2 (sections 5, 6, 7 and 8) of the RMA sets out the purpose and principles of the legislation, which as stated in section 5, is “Avoiding, remedying, or mitigating any adverse effects of activities on the environment”, section 7(c) “The maintenance and enhancement of amenity values” and section 7(f) “The maintenance and enhancement of the quality of the environment”.

In addition, Part 2 of the RMA requires the Council to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).

For the reasons outlined in this report, it is considered that the proposal meets the relevant sections of Part 2 of the RMA.

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



## 9. DECISION ON RESOURCE CONSENT

Pursuant to Section 104A of the RMA, consent is **granted** to undertake a boundary adjustment subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

### Consent Conditions

#### General

1. The subdivision must be in general accordance with the application made to Council and the following plan:
  - *'Lot 1 & 2 Being Subdivision of Pt Sec 71, Sec's 72 & 73 Blk XIV Chatton SD, Herron Rd, Waikaka', prepared by Southern Horizons, Rev 0, dated 30-09-2024*

This plan is attached as Appendix A.

2. Prior to Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved as necessary.
3. The consent holder must meet the costs for the preparation, review and registration of the easement instrument of the relevant Records of Title.
4. Lot 2 shall be amalgamated with Sec 76 Blk XIV Chatton SD (SL183/166) in accordance with the following amalgamation condition:

"That Lot 2 hereon be transferred to the owner of Sec 76 Blk XIV Chatton SD (SL183/166) and that one Record of Title be issued to include both parcels." *Reference number 1928949*

Minor wording amendments may occur if approved as practicable by Land Information NZ.

### Advice Notes

- Any future development 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.

### 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



Joanne Skuse  
**Consultant Planner**

Decision made by



Werner Murray  
**Delegate**

## APPENDIX A

# APPENDIX A – APPROVED PLANS

