

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	SC24014 & LU24015
Applicant	Gore District Council
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for: <ul style="list-style-type: none">- Subdivision consent to create three lots in the Rural Zone that are less than 2 hectares in area and- Land use consent for future residential activity on proposed Lots 1 and 2 being sites that are less than 2 hectares in area
Location	0 Waimea Highway
Legal Description	Part Lot 10 Block III Deposited Plan 70 held in RT SL10C/558
Activity Status	Discretionary Activity
Decision Date	10 September 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 September 2024 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104B, of the RMA, subdivision consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed

pursuant to Section 108 and 220 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Werner Murray, under delegated authority pursuant to Section 34A of the RMA.

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

1. THE PROPOSAL

Subdivision consent is sought to create three lots from Part Lot 10 Block III Deposited Plan 70, which are each less than 2 hectares in area.

Lot 1	1.87 ha of vacant land for future residential use.
Lot 2	1.87 ha of vacant land for future residential use.
Lot 3	7,460m ² containing existing buildings (sheds). Lot 3 will be held initially as an extension to the adjacent Hokonui Pioneer Park, and the land will be vested as a reserve in the future (under separate processes).

Land use consent is sought for future residential activity on proposed Lots 1 and 2, as the sites will be less than 2 hectares in area.



Figure 1: Proposed Scheme Plan, dated 01.06.2024

2. SITE DESCRIPTION

The site is legally described as Part Lot 10 Block III Deposited Plan 70 and is 4.4882 hectares in area. The site is located in the Rural Zone.

The site was previously used as a brick factory and an associated clay quarry operated on the site from approximately 1902 until 1979. Subsequently, it was also used as a golf driving range. The site is largely vacant with two buildings in the north-eastern corner, which were previously used as a former brick works shed and a former driving range tee off building. There is an existing drainage and sewer easement that runs along the northern boundary from east to west and down the western boundary, as noted on the record of title.

The site has frontage to Waimea Highway (State Highway 94) to the north and Waimea Street to the west. To the west at 67 Waimea Street is the Hokonui Pioneer Park, situated on the corner of State Highway 94 and Waimea Street, with an established accessway on Waimea Street. This property also contains the Hokonui Pioneer Village & Museum.

To the south of the site, the properties are predominantly residential in nature. A motel complex and rural lifestyle blocks are situated to the north-west. The properties to the further west of the site are largely rural in nature. The site is approximately 2.4km from the Gore township.

3. ACTIVITY STATUS

3.1 Operative Gore District Plan

The site is zoned Rural in the Gore District Plan, and the proposed activities require resource consent under the District Plan for the following reasons:

- A **discretionary** activity pursuant to Rule 8.10 (5) for the proposed subdivision, as Lots 1 to 3 are each less than 2 hectares in area.
- A **discretionary** activity pursuant to Rule 4.2.4 (1) for the future residential activity on Lots 1 and 2, as the sites are less than 2 hectares in area and breach Rule 4.2.1(1)(h)(i).

3.2 Proposed Gore District Plan

The site is proposed to be zoned as General Residential within the Proposed District Plan. There are no rules with immediate legal effect that impact this application.

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

Based on a review of Gore District Council records, the piece of land to which this application relates is not a contaminated site. Additionally, the subject site is not registered on Environment Southland’s Selected Land Use Sites (SLUS) register as a contaminated site. The site is known to have contained a brickworks and an associated clay quarry in the past. The closure and demolition of the brickworks buildings may have resulted in a discharge of contaminants to land.

The application includes a Preliminary Site Investigation (PSI), which has been prepared by E3Scientific Limited to identify whether any activities described in the Ministry for the Environment’s Hazardous Activities and Industries List (HAIL) have occurred within the site and consider the likelihood of soil contamination being present.

E3Scientific identify an approximate spatial extent of the HAIL area, which includes the majority of the former buildings associated with the factory area and is located wholly within proposed Lot 3.

E3Scientific Limited conclude that despite the potential for contamination at the site on proposed Lot 3; it is highly unlikely that that proposed subdivision will result in a risk to human health, as the proposed residential lots do not overlap with the area of potential contamination associated with the brick making factory.

Additional investigation of the brick making factory may be required should a land use change or further development of proposed Lot 3 take place.

Overall, the proposed 3-lot subdivision and rural-residential land use change are a permitted activity under Regulation 8(4) of the NES-CS as:

- a preliminary site investigation of the land or piece of land exists;
- the report on the preliminary site investigation states that it is highly unlikely that there will be a risk to human health if the activity is done to the piece of land;
- the report is accompanied by a relevant site plan to which the report is referenced; and
- the consent authority has the report and the plan.

3.4 Activity Status Summary

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

4. NOTIFICATION ASSESSMENT

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

4.1 Public notification – Section 95A

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

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

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

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are no rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
 - a controlled activity; or
 - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Step 3 – Public notification is required in certain circumstances

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

The following effects must be disregarded:

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

Written Approvals

NZ Transport Agency Waka Kotahi Have provided a written approval to the application, via letter dated 29 August 2024.

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 a resource consent, there is no permitted baseline. In relation to the land use component, sites that are 2 hectares or larger can contain a residential activity as a permitted activity.

Future land use density breach

The proposed lots are unable meet the required 2-hectare minimum allotment size prescribed for the Rural Zone by the Operative District Plan. The proposed lots comprise an area of 1.87 hectares, 1.87 hectares and 7,460m² respectively. Lots 1 and 2 are vacant lots and are proposed to be used for residential living. Proposed Lot 3 contains two existing sheds and will be retained by the Council with an intention to become reserve land in the future.

Lots 1 and 2 both fall short of the minimum lot area by 130m². The breach is generally small in scale and will appear indiscernible from the wider environment.

The receiving environment as shown in Figure 2 has relevance. The subject site is surrounded largely by developed land that is used for either residential activity or visitor accommodation. The site whilst large, is viewed in the context of the North Gore urban area and the adjoining Residential A Zone. As such, the character of the surrounding area is not particularly rural and agricultural uses are not the predominant land use. The properties to the south contain dwellings and some smaller Rural zoned

properties on the northern side of the highway are also used for residential purposes (60, 68 and 70 Waimea Highway). The Rural zoned properties on the opposite side of Waimea Street are under 2 hectares in area (48, 52, 60A and 60B Waimea Street). The creation of the undersized lots in the context of the receiving environment is therefore not out of character.



Figure 2: Subject site and surrounding development

Whilst typically the Rural Zone is characterised by open spaces and limited built form, the site although large in itself does not make up a large rural landscape. The creation of three undersized rural sites will not result in adverse visual effects which are more than minor. Any adverse effects in relation to rural character and rural amenity are therefore considered to be no more than minor.

Suitability of the allotments for future land use

Proposed Lots 1 and 2 will have sufficient space for a residential dwelling to be established, which complies with the Performance Standards in the District Plan for the Rural Zone, including the yards, daylight admission and height standards. The application and scheme plan does not show a fixed building platform location on Lots 1 and 2. However, it is considered unnecessary to require a fixed area for a building platform in order to reduce effects given the extent of available area.

An advice note is recommended which advises the consent holder that any future development on proposed 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.

Proposed Lot 3 may be suitable for a reserve use, subject to separate processes.

Overall, it is considered that the size, shape and configuration of the proposed allotments are appropriate for the intended future land uses and that any adverse effects on the wider environment will be less than minor.

Suitability of land for subdivision – Natural and Other Hazards

The Gore District Council's mapping system identifies the site as free of any flood hazards. Therefore, the subdivision will not exacerbate the risk of inundation upon the wider environment.

The Gore District Council's mapping system identifies the liquefaction risk on the site as 'negligible'. Therefore, it is considered that the subdivision will not exacerbate the risk of liquefaction upon the wider environment.

The subject site is not registered on Environment Southland's SLUS register as a contaminated site. The application includes a PSI which has been prepared by E3Scientific Limited to identify whether any activities described in the HAIL have occurred within the site and consider the likelihood of soil contamination being present.

E3Scientific Limited conclude that it is more likely than not, that no activities or industries listed on the HAIL have occurred on proposed Lots 1 and 2, which are likely to be developed for residential purposes in the future, and do not pose a risk to human health.

E3Scientific Limited note that additional investigation of the former brick making factory within proposed Lot 3 may be required, should a land use change (to rural residential) or further development of the lot take place. A consent notice is recommended to be placed on the title of Lot 3 to advise the need for due diligence for future development. Subject to this consent notice, it is considered that any risk of the spread of contamination to the wider environment is less than minor.

Overall, any adverse effects, with respect to natural and other hazards, on the wider environment will be less than minor.

Ability to provide services

There are reticulated water and wastewater services available to the site. However, there are no connections for the subject site at present.

Proposed Lots 1 and 2 will be provided with separate and private connections to the watermain located in Waimea Street, as identified on the scheme plan.

Stormwater is proposed to be disposed of on-site, as there is no reticulated connection available. As both of the proposed Lots will be 1.87 hectares in area, it is considered that these lots contain sufficient land area for this to occur. The applicant has confirmed that preliminary geotechnical reporting indicates that onsite soakage will be feasible.

In terms of wastewater, there is an existing wastewater main that passes through the proposed lots. Both of the lots will connect to this, and a wastewater connection will be established at the building consent stage, which will allow for the future owners to determine the location of the building prior to the establishment of a connection.

The Council's 3 Waters Operations Manager has reviewed the application and raised no concerns, and notes that 3 waters connections will be assessed at the building consent stage. A consent notice

condition will be placed on the titles of Lots 1 and 2 to require the future owners to establish 3 waters connections prior the granting of a building consent. Therefore, with the imposition of a consent notice condition, it is considered that any effects related to 3 waters servicing for Lots 1 and 2 will be less than minor on the environment.

PowerNet have confirmed that the existing infrastructure along Waimea Street has the capacity to supply additional electricity connections to proposed Lots 1 and 2. PowerNet have also confirmed that proposed Lot 3 already has a supply extending directly from Waimea Highway, which will be retained. A telecommunications service to proposed Lots 1 and 2 will provided through wireless coverage. The applicant has provided confirmation that Spark and Yrless 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.

Given that proposed Lot 3 will be an extension of Pioneer Park, it is not proposed to be provided with domestic services, which is acceptable.

Overall, any effects related to servicing of the proposed lots will be less than minor on the environment.

Impacts on heritage, archaeological values, natural features, landscapes and water quality

There are no known heritage or archaeological features, or values identified on the site. It can be considered that the impacts of the proposed subdivision will be nil with respect to these features and values.

The subject site is located outside of any mapped significant natural features and landscapes and any areas shown as having identified ecological or cultural values.

The subject site is not in close proximity to any water bodies. It is considered any impacts on water quality, including groundwater would be less than minor.

Effects on traffic

Proposed Lot 1 and 2 will each be provided with a new vehicle crossing off Waimea Street. Proposed Lot 3 will continue to utilise the existing vehicle crossing off Waimea Highway (State Highway 94)

Council's Senior Roading 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 (the Bylaw) apply to proposed Lots 1 and 2.

State Highway 94 (Waimea Highway) is a chip sealed, rural arterial road, with this section adjacent to the site being straight but rising to the west. There is a 100km per hour speed restriction. Waimea Highway is also a limited access highway. Waimea Street is a chip sealed, local collector road, with a concrete kerb and channel on the southern side. The street is straight, with a 70km per hour speed limit restriction.

The two proposed vehicle crossings off Waimea Street will need to be constructed in accordance with Bylaw Diagram R03, "Standard Drop Crossing". The driveways will need to be concreted up to the property boundary and provision will need to be made for piping the existing drain in the road reserve under the vehicle crossings with a suitable sized culvert. The sight distances available at the proposed

locations appear to conform with the Bylaw. Mr Hasler's recommendations will be included as conditions on the consent, which have been accepted by the Applicant as forming part of the proposal.

Access to the subject site is currently authorised by Crossing Place 4 onto State Highway 94. The Applicant has consulted with NZ Transport Agency Waka Kotahi (NZTA) on the proposed use of the existing vehicle crossing onto State Highway 94 for proposed Lot 3. NZTA advise that the purpose of this vehicle crossing will be for Council vehicles to access Council sewer infrastructure and to undertake maintenance of the lot, such as mowing. The vehicle crossing is not intended to be used as a means of vehicular access to proposed Lot 3 or Pioneer Park by the general public. The use of this access by Council vehicles is not expected to intensify as a result of the proposed subdivision, and for this reason, the NZTA Safety and Network teams consider that the existing formation standard is acceptable for future use and does not need to be upgraded.

NZTA advise that as only proposed Lot 3 will gain access via Crossing Place 4 onto State Highway 94 following the subdivision; it is appropriate that Crossing Place 4 is updated to reflect the change in land parcel authorised to use the crossing, as well as to limit its use to only Council and Council contractor vehicles.

NZTA have recommended two conditions of consent. The first condition relates to the provision of the relevant documents to facilitate the registration of any new Crossing Place Notice against the Lot 3 title. The second condition relates to the inclusion of a consent notice for Lots 2 and 3 that addresses potential reverse sensitivity effects resulting from the normal operation of State Highway 94. These conditions have been accepted by the Applicant as forming part of the proposal.

The assessment by Mr Hasler and NZTA have been adopted. Overall, it is considered that safe accesses will be provided to serve each lot in the subdivision and any effects on traffic 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.

Neighbouring Properties

The adjacent persons are all of the owners of the properties that share a common boundary with the subject site and those that are located opposite the site, as shown in Figure 3.

The adjacent properties include the site to the north (Lot 3 DP 357891); the sites to the east (33, 35 Waimea Highway and 35 North Terrace); the sites to the south (Lot 1 DP 13168, 38A, 40, 42, 44, 46, 48, 58, 60, 70, 72, 76A Norton Street); and the sites to the west (47, 52, 60A, 62 and 67 Waimea Street).



Figure 3: The adjacent properties shown by yellow circles.

The subdivision will create three allotments, all of which are unable to meet the minimum lot size for the Rural Zone. Lot 3 will become an extension to the adjacent park, Hokonui Pioneer Park (67 Waimea Street), while Lot 2 and 3 will be sold and it is likely that the future owners will develop the lots for residential purposes. Although, proposed Lots 1 and 2 are undersized for the Rural Zone, the properties to the south are zoned as residential and are currently used for residential purposes. It is therefore considered that these proposed lots will not be out of character.

In regard to the property to the north of the site, this is a vacant property, which is used for rural purposes. The site and this property are separated by Waimea Highway, thus there is a separation distance of approximately 40 metres. Additionally, Lot 3 will be located immediately adjacent to this and no development is proposed on this lot.

The properties to the east and west are also undersized and similar in nature to what is proposed and are currently used for rural residential purposes. Therefore, it is considered that the proposed subdivision will not be out of character for the surrounding area and will be similar to the existing development in the vicinity. Any adverse effects upon the character and the amenity experienced by persons living on the adjacent properties will be less than minor.

The subdivision would maintain the safe and efficient function of Waimea Street and Waimea Highway. Given the nature of the surrounding area, any effects related to traffic generation are considered to be less than minor on any persons.

Services to Lots 1 and 2 can feasibly be accommodated via the reticulated network and on-site stormwater disposal. The effects of the proposal in this regard will therefore be less than minor for any adjacent persons.

Overall, it is considered the subdivision will not create lots or uses that are out of character for the area or detract from the existing amenity values. Therefore, the adverse effects are considered to be less than minor, and no persons would be adversely affected by the proposal.

Conclusions: Effects on Persons

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

Step 4 – Special Circumstances for Limited Notification

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

5. DECISION PURSUANT TO S95A AND S95B OF THE RMA

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

6. SECTION 104 ASSESSMENT

6.1 Matters for Consideration

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

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

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

6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 and s220n of the RMA as required to avoid, remedy or mitigate adverse effects.

The proposed subdivision will create two additional residential allotments in the Gore Community and enable the adjacent Hokonui Pioneer Park to extend in area.

6.3 Relevant Provisions

Operative District Plan

The relevant operative objectives and policies are contained within Chapter 3 – Land Use Activities - A Framework and Chapter 8 - Subdivision of Land of the District Plan.

Chapter 3 – Land Use Activities - A Framework

- Objective (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.*
- Objective (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.*
- Policy (1) Establish zones that reflect the characteristics and amenity values of the area.*
- Policy (2) Control the adverse effects of land use activities on the environment.*

Chapter 8- Subdivision of Land

- Objective (1) To facilitate the orderly subdivision and development of land.*
- Objective (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.*
- Objective (3) To ensure that developers pay all reasonable costs associated with the subdivision and subsequent development of land.*
- Objective (5) To ensure land development and servicing is undertaken to Council standards.*
- Objective (6) To avoid adverse effects on the Council's reticulated infrastructure services.*
- Objective (7) To ensure that land subdivision results in allotments that are suitable for activities anticipated by the zone in which they are located.*
- Objective (8) Avoid adverse effects on water quality, including groundwater, from the development of subdivided land.*
- Policy (1) Control the subdivision of all land.*
- Policy (2) Avoid adverse effects of subdivision on the functioning of existing services, infrastructure and roading.*
- Policy (3) Require works associated with subdivision to be carried out in conformity with Council standards.*
- Policy (4) Encourage, where practical, the undergrounding of all services associated with the development of subdivided land*
- Policy (5) Avoid any off-site effects of development of subdivided land.*
- Policy (9) Require land development to be undertaken in compliance with the Gore District Council Subdivision and Land Development Bylaw 2011.*
- Policy (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.*
- Policy (11) Have regard to potential reverse sensitivity effects from the use of subdivided land and the means by which any such effects can be avoided, remedied or mitigated.*

- Policy (12) Encourage the adoption of practises that will minimise the extent off-site effects on the Council's infrastructure services.*
- Policy (13) Have regard to the potential impacts arising from the subdivision and future use of land on water quality, including groundwater.*

The proposed lots are unable to meet the required 2-hectare minimum allotment size prescribed for the Rural Zone by the Operative District Plan. Notwithstanding this, Lots 1 and 2 are a suitable size and shape to accommodate a future residential activity. Any future development on the sites will be capable of meeting the bulk and location standards for the Rural Zone.

The required water supply and wastewater connections can be provided to Lots 1 and 2 in conjunction with a building consent application for a new dwelling and this will be secured via a consent notice. It is considered that the subdivision and future residential activity can occur without resulting in adverse effects on the Council's reticulated services.

On-site stormwater disposal methods will also be designed as part of a building consent application for a new dwelling on Lots 1 and 2 and this will be secured via a consent notice. As a result, any potential for adverse effects on water quality, including groundwater, will be managed appropriately and off-site effects are avoided.

Lots 1 and 2 can be provided with a new electricity connection and wireless telecommunications services.

Lot 3 will be retained by the Council with an intention to become reserve land in the future. Lot 3 has an existing electricity connection and does not need to be provided with domestic servicing.

Lots 1 and 2 can be provided with a new vehicle crossing to Waimea Street, while Lot 3 will retain use of an existing crossing place to Waimea Highway, and this has been authorised by NZ Transport Agency. A consent notice will be included on the titles of Lots 2 and 3, in order to address potential reverse sensitivity effects resulting from the normal operation of Waimea Highway.

All works related to servicing, roading and future development will be required to be undertaken in accordance with the Gore District Council Subdivision and Land Development Bylaw 2019. Any adverse effects from the proposed subdivision on the functioning of existing services, infrastructure and roading will be avoided or mitigated.

The subdivision and land use proposals are appropriate and will not lead to adverse effects on the character and amenity values of the surrounding rural and residential area. Overall, it is considered that the subdivision and land use proposals are consistent with the relevant objectives and policies of the Operative Gore 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. The further submission period closed on 12 April 2024. The hearings process is currently underway. 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.

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 allow for two additional allotments to be created. This will enable the opportunity for two of those three lots to be developed with a residential unit, and the open space within those lots has the potential to be used for productive purposes. The site comprises Class 2 soils. These soils can continue to provide for a small-scale rural activity following the subdivision. Lots 1 and 2 can be provided with an on-site wastewater system at the time of development. Overall, it is considered that the proposal is aligned with the relevant objectives and policies in the RPS.

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.

The subject site is located in the Rural Zone under the Operative District Plan and is mapped as containing Land Use Capability Class 2 soils. Therefore, the NPS-HPL can be considered relevant, as the proposal is a discretionary activity overall.

Below are important definitions under the NPS-HPL:

'highly productive land' means:

land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land)

'identified for future urban development' means:

- a) *identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or*
- b) *identified:*
 - i) *in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and*
 - ii) *at a level of detail that makes the boundaries of the area identifiable in practice.*

Clause 3.4(2) of NPS-HPL states that:

*However, despite anything else in this clause, land that, at the commencement date, is **identified for future urban development** must not be mapped as highly productive land [bold emphasis added]*

The *Ready for Tomorrow* - Gore District Spatial Plan, prepared by the Council in 2019, aimed to provide a framework for future development and growth of the District. It is considered that *Ready for Tomorrow* meets the criteria identified in (b) of the definition of 'identified for future urban development' above. It is important to note that *Ready for Tomorrow* identified more land than what would be suitable for commencing urban development over the next 10 years, so not all of the land identified in *Ready to Tomorrow* would meet (b)(i) above. However, the subject site has been notified in the Proposed Gore District Plan as residential (as shown below), which means that it is suitable for commencing urban development over the next 10 years.

In the Spatial Plan, the subject site and the surrounding rural area on the southern side of Waimea Highway and the eastern side of Waimea Street were identified as being within 'Residential potential area 1', as shown in Figure 4.

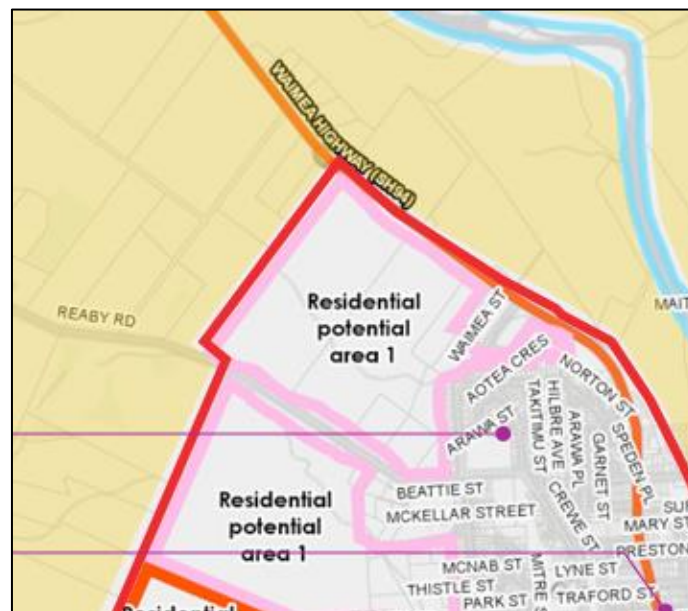


Figure 4: Extract from the 'Outcomes Map - Gore township' from page 14 of the Gore District Spatial Plan

The subject site and the land on the eastern side of Waimea Street were subsequently identified for future urban development in the Proposed Gore District Plan (notified on 31 August 2023). The subject site is proposed to be zoned as General Residential, as shown in Figure 5.



Figure 5: Proposed District Plan General Residential Zone is shown in yellow colour.

As the subject site meets the definition of **identified for future urban development**, it cannot be mapped, as per section 3.4(2) of the NPS-HPL. As such, the land cannot be considered highly productive land (as outlined in the definition above) and the NPS-HPL does not apply.

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.

There will be legal and physical provision for access to Lots 1 and 2 off Waimea Street. There will be legal and physical provision for access to Lot 3 off Waimea Highway for Council vehicles. Members of the public will also be able to enter Lot 3 in the future through Hokonui Pioneer Park, which has an existing access to Waimea Street.

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.

Section 5 – Purpose

The proposed subdivision takes into account Section 5 of the RMA, as the proposed lots will ensure the natural and physical resources of the rural land is protected for future generations. As assessed above, the adverse effects of the proposal can be avoided or mitigated.

Section 6 – Matters of national importance

Attention has been given to matters of national importance. This site does not contain any outstanding natural features or landscapes, nor an area of significant indigenous vegetation. It is considered the future land use is appropriate within this rural and residential landscape.

Section 7 – Other matters

Particular regard has been given to the maintenance and enhancement of amenity values (section 7(c)) and maintenance and enhancement of the quality of the environment (section 7(f)). The amenity of the land and surrounding area will be maintained, and the subdivision will not have adverse effects on the quality of the environment.

Section 8 – Treaty of Waitangi

This site is not within any known heritage sites or statutory acknowledgement areas and therefore, this recommendation is not inconsistent with the principles of the Treaty of Waitangi.

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

9. DECISION ON RESOURCE CONSENTS

Decision A - Subdivision

Pursuant to Section 104B of the RMA, consent is **granted** to undertake a subdivision of Part Lot 10 Block III Deposited Plan 70 to create three lots in the Rural Zone that are less than 2 hectares in area, subject to the following conditions imposed pursuant to Section 108 and Section 220 of the RMA:

Consent Conditions

General

1. The subdivision must be undertaken generally in accordance with the application made to the Council on 21 May 2024 and the further information response received 19 June and 30 August 2024 and the following plan:
 - ‘Lots 1 & 2 Being Subdivision of Pt Lot 10 Blk III DP 70’, project number: 23054, Revision 3, prepared by Southern Horizons, dated 01-06-2024.

This plan is attached as Appendix A.

Easements

2. Prior to Council signing the Survey Plan for the subdivision pursuant to Section 223 of the Resource Management Act 1991, any necessary easements shall be shown in a 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 instrument(s) on the relevant Records of Title.

Crossing Place Notice

4. Prior to the issuing of a certificate pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall provide to Council confirmation that the New Zealand Transport Agency has been advised of relevant documentation (such as proposed title references, draft LT (Land Transfer) plan or SO (Survey Office) plan) to facilitate the registration of any new Crossing Place (CP) Notices against those new titles, under Section 91 of the Government Roding Powers Act 1989.

Advice Note: This condition was recommended by NZ Transport Agency Waka Kotahi (Reference: 2024-0760), in order for Cross Place 4 to be updated to reflect the change in land parcel authorised to use the crossing, as well as to limit its use to only Council and Council contractor vehicles.

Vehicle Access

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 Chief Executive of the Gore District Council, complete the following:
 - a. The new vehicle crossing for Lots 1 and 2 shall be constructed in the location as shown on the plan in Appendix A, and in accordance with Diagram R03 “Standard Drop Crossing” contained in the Gore District Council Subdivision and Land Development Bylaw 2019.
 - b. The driveway for Lots 1 and 2 shall be concreted to the property boundary. Provision shall be made for piping the existing drain in the road reserve under the vehicle crossings with a suitable sized culvert.

Electricity

6. Prior to certification of the subdivision pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall provide written confirmation from the electricity network supplier responsible for the area, that provision of an electricity supply has been made available to the boundaries of Lots 1 and 2, and that all the network supplier’s requirements for making such means of supply available have been met.

Consent Notices

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 Records of Title to record that:

Servicing – Lots 1 and 2

- a) The water supply connections (including firefighting supply) and wastewater connections shall be established prior to the granting of a building consent for a new dwelling and in accordance with the Gore District Council Subdivision and Land Development Bylaw 2019.
- b) The on-site stormwater system shall be designed in conjunction with a building consent application for a new dwelling.

- c) At the time of subdivision, a fixed-line telecommunication connection was not provided to the lot and an alternative service (e.g. wireless broadband) needs to be installed at a cost to the owner at the time that the connection is applied for.

Reverse Sensitivity – Lots 2 and 3

- d) Any dwelling or other building used for a noise sensitive activity on the site located in or partly within 100 metres of the sealed edge of the State Highway 6 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.

Advice Note: This consent notice condition was recommended by NZ Transport Agency Waka Kotahi (Reference: 2024-0760), in order to address potential reverse sensitivity effects resulting from the normal operation of State Highway 94.

Contamination – Lot 3

- e) Due to the potential for contamination associated with the former brick making factory within the lot; should a land use change to rural residential occur, or further development of the lot take place; further contamination investigations will be required to determine whether the change of use or new development results in any risks to human health.

Advice Note: This requirement was a recommendation in the Waimea Street Preliminary Site Investigation, Project ID: 24052, by E3Scientific Limited, dated April 2024.

Decision B – Land Use

Pursuant to Section 104B of the RMA, land use consent is **granted** for future residential activity on proposed Lots 1 and 2 of subdivision SC24014, being sites that are less than 2 hectares in area, in accordance with the application made to the Council on 21 May 2024 and the further information response received 19 June and 30 August 2024.

Advice Notes

1. All engineering works (including vehicle access, servicing and earthworks) shall be carried out in accordance with the standards in the Gore District Council's Subdivision, Land Use and Development Bylaw 2019.

Note: The document is available on Council's website via the following link: Subdivision and Land Development Bylaw 2019.pdf ([goredc.govt.nz](https://www.goredc.govt.nz)).

Refer to the following link for details of the process to be followed for installing new connections to the Council's 3 Waters networks - <https://www.goredc.govt.nz/services/3-waters/service-connections>.

2. All 3 Waters Infrastructure to be vested into Council ownership will need to be completed by one of the Council's approved 3 Waters Contractors – refer to the following link for further details regarding this - <https://www.goredc.govt.nz/services/3-waters/approved-contractors>.

3. Any work carried out on the legal roadway (Waimea Street) 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.

4. The Gore District Plan and Gore District Council Subdivision and Development Bylaw 2019 sets out standards and requirements which are required to be met in any subdivision or constructing of buildings on Lots 1 and 2.

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.

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



Penny Weng
Consultant Planner

Decision made by



Werner Murray
Delegate

Appendix A: Approved Plan

APPENDIX A – APPROVED PLAN

