

Submission Form 16 to the Otago Regional Council on consent applications



This is a Submission on (a) limited notified/publicly notified resource consent application/s pursuant to the Resource Management Act 1991.

Submitter Details:
(please print clearly)

Full Name/s: Nicola Jane Clark and Bryson David Clark

Postal Address: [Redacted]

Post Code: 9348

Phone number: Business: [Redacted] Private:

Mobile:

Email address: [Redacted]

I we wish to OPPOSE a submission on (circle one) the application of:

Applicant's Name: Cromwell Certified Concrete Limited

And/or Organisation:

Application Number: RM20.360.01 - 04

Location: Cromwell, approximately 400 metres south southeast of the intersection of Luggate-Cromwell Road (State Highway 6) and Mt Pisa Road

Purpose: Various consents relating to gravel washing

The specific parts of the application/s that my submission relates to are: (Give details)

Please see attached.

[Four horizontal lines for additional details]

My/Our submission is (include: whether you support or oppose the application or specific parts of it, whether you are neutral regarding the application or specific parts of it and the reasons for your views).

Please see attached.

[Four horizontal lines for additional details]

I/We seek the following decision from the consent authority (*give precise details, including the general nature of any conditions sought*)

Please see attached.

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I/we:

- Wish to be heard in support of our/my submission
- Not wish to be heard in support of our/my submission

If others make a similar submission, I/we will consider presenting a joint case with them at a hearing.

- Yes
- No

I, **am not** (choose one) a trade competitor\* of the applicant (for the purposes of Section 308B of the Resource Management Act 1991).

*\*If trade competitor chosen, please complete the next statement, otherwise leave blank.*

I, **am/am not** (choose one) directly affected by an effect as a result of the proposed activity in the application that:

- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition.

I, **do** (choose one) wish to be involved in any pre-hearing meeting that may be held for this application.

I **do not** request\* that the local authority delegates its functions, powers, and duties to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.

I **have** served a copy of my submission on the applicant.

*Maree Barr - Galloway*

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Signature/s person authorised to sign on behalf of  
submitters

11 June 2021

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(Date)

### **Notes to the submitter**

If you are making a submission to the Environmental Protection Authority, you should use [form 16B](#).

The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given. If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.

You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.

**Privacy:** Please note that submissions are public. Your name and submission will be included in papers that are available to the media and the public, including publication on the Council website. Your submission will only be used for the purpose of the notified resource consent process

If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in [Part 11A](#) of the Resource Management Act 1991.

If you make a request under [section 100A](#) of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

You may not make a request under section 100A of the Resource Management Act 1991 in relation to an application for a coastal permit to carry out an activity that a regional coastal plan describes as a restricted coastal activity.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

The address for service for the Consent Authority is:

**Otago Regional Council, Private Bag 1954, Dunedin, 9054**  
or by email to [submissions@orc.govt.nz](mailto:submissions@orc.govt.nz)

**Submission on application concerning resource consent that is subject to limited notification by consent authority**

To: Otago Regional Council  
submissions@orc.govt.nz

Submitters: Nicola Jane Clark  
Bryson David Clark

- 1 This submission is made on behalf of Nicola Jane Clark and Bryson David Clark (**the Submitters**) in opposition to resource consent application RM20.360 (**Application**) made by Cromwell Certified Concrete Limited (**Applicant**) to take and use groundwater, discharge contaminants to land and air, and construct a bore at 1248 Luggate-Cromwell Road State Highway 6, north of Cromwell (legally described as Lot 3 DP 301379) (**Application Site**).
- 2 The Submitters are not trade competitors for the purpose of section 308B of the Resource Management Act 1991 (**RMA**).

**Submitter's interest in the Application**

- 3 The Submitters own land immediately adjacent to the Application Site at 1308 Luggate-Cromwell Road (legally described as Lots 2 and 7 DP 301379) (**Submitter's Land**). Their dwelling is approximately 30 metres from the boundary of the Application Site.

**Part of the Application opposed**

- 4 The Submitters are opposed to the Application in its entirety. It is noted that the Submitters have made a submission on the associated Application to the Central Otago District Council (**CODC**), and that concerns raised in that submission should be taken into account by the ORC to inform a complete understanding of environmental effects associated with the Application.
- 5 This submission also supports the matters and concerns raised in the submissions by Irrigation and Maintenance Limited and Amisfield Orchards Limited and Amisfield Estates Society Inc. Without duplicating submission matters, and with the intention of preserving standing and scope, the Submitters reserve the opportunity to speak to any of the matters raised within these other submissions.
- 6 The Submitters are further concerned that the Application has not been limited notified to Public Health South and consider this entity to be an affected party.
- 7 Without limiting the generality of the above, the specific parts of the Application that the Submitters are opposed to / concerns as to effects from the Application, are the:
  - (a) Proposed increased rate of groundwater take;
  - (b) Adverse effects on water quality and quantity;
  - (c) Discharges to land and water;
  - (d) Proposed increased discharge of nuisance dust;
  - (e) Adverse effects on air quality and health (discharges to air);

- (f) Natural hazards;
- (g) Reverse sensitivity;
- (h) Adverse effects on future land use / undermining of productive soil capacity and soil conservation; and
- (i) Associated adverse health and safety effects.

## Reasons for the submission

### Concerns regarding water quantity and quality

- 8 The Application overall is inconsistent with the provisions (objectives, policies, and rules (if applicable) of the Otago (proposed and operative) RPS, Regional Water Plan, Regional Plan (Air), notified PC7 to the Regional Water Plan, and does not represent a sustainable use of resources in accordance with Part 2 of the RMA or national environmental standards / policy statements on freshwater management.

### *Groundwater take*

- 9 The Application proposes to increase the rate of groundwater take from 47 l/s to 70 l/s. The Submitters are concerned about the sustainably available amount of water from this resource for further consumptive allocation. The E3 Scientific Groundwater Take Effects Assessment Review (**Review**) states there exists "uncertainty regarding the adequacy of the pumping test data" and finds that the proposed "groundwater take may significantly impact on the closest neighbouring groundwater users".<sup>1</sup> This includes unacceptable bore interference.
- 10 In addition to issues regarding allocable amounts, the Submitters raise concern as to effects of increased abstraction, and the construction of an entirely new bore, on existing water permit holders in the vicinity of the groundwater resource<sup>2</sup> proposed to be used by the Applicant. Such concerns include, but are not limited to, levels and flows of groundwater, range or rate of change, effects on reliability of water supply, seasonal effects, pumping and rates of take, ecosystem and ecological effects, effects on water table levels and pressure.
- 11 It is considered that the amount of take proposed to be consented may be an under-estimation of what is actually required of the proposal (including any irrigation of the proposed bunds and additional mitigation required, as sought by the Submitters), and therefore further potential effects may be anticipated beyond what has been assumed by the Applicant.

### *Water quality*

- 12 The Submitters are concerned that the proposed quarry expansion will have adverse effects on water quality. The Review states "the return of water through soakage pits may cause some increases to turbidity".<sup>3</sup> The Submitters consider that discharge of contaminants to water and to land (including runoff, soil disturbance, and other processing material) will be increased in the groundwater and surface water resource. It is noted that no further water processing infrastructure is proposed in the application, despite increases in volumes of water take and discharge and

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<sup>1</sup> E3 Scientific Groundwater Take Effects Assessment Review 11 November 2020 at 10.

<sup>2</sup> Pisa Groundwater Management Zone.

<sup>3</sup> E3 Scientific Groundwater Take Effects Assessment Review at 10.

processing proposed. This is considered to be inadequate to address adverse discharge effects on water and soil quality and health.

- 13 The Submitters consider there is inadequate information on, and testing of, potential adverse effects to water quality, quantity, and associated ecosystem and ecological health. These effects are relevant in particular for other water users within the same groundwater catchment, as well as of general concern to residents and the community, who are invested in ensuring healthy water quality outcomes are achieved.
- 14 Associated effects on surface and lake water quality have not been adequately assessed, and further resource consents are believed to be required under the Regional Plan, including for discharge of contaminants to land and to water. Current quarry practices are not meeting conditions of consent already imposed and the Submitters consider that proposed water quality measures will not be able to be implemented and / or will not adequately mitigate increased adverse effects to water quality.

#### Concerns regarding dust, air quality and health

##### *Increased discharge of nuisance dust and adverse effects on air quality*

- 15 The NZ Air Report (**Report**) states "the technical assessment of potential air quality effects provided in support of the air discharge consent lacks detail on a number of aspects" and finds there "is a higher potential for off-site adverse effects to occur" than is represented in the assessment.<sup>4</sup>
- 16 The Report describes the distance between the Clark dwelling and the nearest proposed extraction area as "small" and considers the potential effects on the property "are elevated by the fact that there will be/may be quarrying/dust producing activities on three sides of the property which could occur simultaneously".<sup>5</sup> It states that without "very stringent dust mitigation measures during works this close to a residential dwelling, there is a high potential for dust discharges to generate nuisance effects on this residence".<sup>6</sup>
- 17 The Clarks have experienced adverse dust effects from the existing quarry, which is located more than 220 metres from their dwelling. They have previously reported these adverse dust effects to CODC and Otago Regional Council (**ORC**). The Report refers to videos attached to these emails and describes the dust emissions as "substantive and not consistent with emissions which would be expected from a quarry which is implementing industry standard dust mitigation measures".<sup>7</sup>
- 18 The Submitters consider that adverse dust effects from the proposed expansion will certainly be worse than the effects already experienced because of the reduced minimum setback, as well as cumulative increased quarrying activities proposed to surround their property.
- 19 NZ Air refers to cropping activities adjacent to the proposed quarry expansion and considers that "without stringent dust mitigation measures, the potential for an increase in dust deposition on

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<sup>4</sup> Technical Report Air Discharge Review NZ Air 12 January 2020 at 5.

<sup>5</sup> At 6

<sup>6</sup> At 6.

<sup>7</sup> At 6.

these immediately adjacent cropping activities is likely".<sup>8</sup> The Submitters bought their Property with the intention of future commercial operations such as orchards. They are concerned about the adverse effect the proposed expansion could have on any crops grown on their property.

- 20 The Submitters are concerned about the adverse effects increased dust from the quarry expansion will have on their health, and that of their vulnerable family members and pets, as well as on adjacent and nearby properties. These effects are considered to be significantly adverse on both the Submitter Property as well as surrounding adjacent properties. They are also concerned that increased dust from the proposed quarry expansion will adversely affect their business, which stores client property in a storage shed near the boundary. Dust damage to client property will result in loss of business and income.
- 21 The Submitters do not consider the proposal to include sufficiently stringent dust mitigation measures. The nature of proposed excavation and land contouring has the result of funnelling wind and carrying dust to nearby properties, much further than is anticipated in the supporting documentation to the application. Prevailing wind conditions have been modelled based upon a short duration of the year only. The Submitters do not feel this is representative of the local climate and unique weather patterns experienced, such that they are affected by increases in particulate matter concentrations from the quarrying activity. Additionally, local topography of the Site lends itself to exaggerating wind and weather conditions through funnelling of dust. Further mitigation will be required for stored materials, such as aggregate piles, which are prone to wind-blow and carrying the dust offsite. Wind and weather conditions relied upon in the application are considered insufficient as they do not take into account on the ground specifics for the site, and are not representative of full seasonal changes and effects in weather patterns.<sup>9</sup>
- 22 Proposed conditions for monitoring are unrealistic and inadequate to address or mitigate these concerns. In particular, mitigation measures are unlikely to address adverse effects because of the potential for dust to be blown offsite at all times, beyond operating hours. Even with proposed mitigation for pollution control, there will still be (unintended) emissions which must be anticipated and allowed for. Equipment failure, accidents, abnormal weather conditions and operating hours are among causes that can lead to emissions affecting sensitive land uses (i.e. residential) beyond the boundary of the source premises. Only increased separation distances can be included to effectively address unintended and residual air emissions (which are usually intermittent or episodic, and may originate at or near ground level).
- 23 The Application includes a proposed increase of trucks, 47-75 (94-150 trips per day) which will have associated dust risk increases. Proposed mitigation measures to use water on these trucks when practicable will not sufficiently address these increased adverse effects. Conditions such as these will be unable to be monitored effectively by the council enforcement teams, and without significant cost to the public.
- 24 There has been no comprehensive assessment of whether the proposed discharge of contaminants can be assimilated to air.

#### Concerns regarding health and well-being

- 25 The Submitters are concerned that the proposed expansion will adversely affect their physical health and that of their vulnerable family members, pets and neighbours. They are further

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<sup>8</sup> At 6.

<sup>9</sup> Refer Application Beca Report which only uses an 8 month representation of weather data (Sept – April) not taking into account significant changes across the whole 12 months of seasons.

concerned that increased dust nuisance and adverse air quality effects will prevent them from spending time outside, and in doing so, compromise their mental health and well-being.

- 26 The proposal will result in increased adverse and unacceptable health effects from RCS (Respirable Crystalline Silica). Central Otago has a higher proportion of quartz rich rock than many other quarry locations through NZ, and where buffer setback distances are larger than proposed in this Application. The increases to inhalable Dust from Fine Particulate Matter are of significant Public Health concern, and as noted above it is considered that Public Health South should be identified as an affected party to this Application.

#### Natural Hazards

- 27 The Application states the expansion of the quarry "will not give rise to any increase in risk of subsidence on neighbouring land due to set backs and internal benching". The Submitters consider that the proposed minimum setbacks are not sufficient to ensure there is no increase in risk of subsidence on the Submitter Land. There is no comprehensive assessment of increases to risks from other natural hazards in the Application, such as land instability, erosion, and consequential effects of changing and more extreme weather patterns. The Application does not adequately manage the significant risks from natural hazards that the site is exposed to, including potential debris flow, lake tsunami, earthquakes and earthquake-induced hazards like liquefaction. The presence of existing development in the vicinity does not justify the increase in natural hazard risk, and does not take into account the effects of climate change and the costs of dealing with natural hazard events, which will ultimately be borne by the public. The Environmental Protection Authority for Victoria published guidance for 'recommended separation distances for industrial residual air emissions' ; Page 9 details recommended separation distances for quarrying activities from residential activities be a minimum of 250m. See extract below. The Application cannot comply with such recommended best practice, and should be declined on this basis.
- 28 Additionally, the cumulative impact of expansion of the quarry on all sides of residential activity, coupled with unique on-site weather patterns which are unpredictable, should be taken into account in applying increased site distances, these factors warrant a higher degree of separation than the minimums prescribed above.
- 29 Risks from natural hazards (being a section 30 Regional Council function) are considered to be increased by this Application and are not sufficiently avoided or mitigated by proposed conditions.

#### Reverse sensitivity effects and effects on productive capacity of soils

- 30 The Clarks bought their Property with the intention of future commercial operations such as orchards. The property was subdivided to a size to anticipate this type of development as a permitted activity, and consents (pertaining to water) have been obtained with this intention in mind. Associated dust effects from the quarry activity will adversely affect these established and permitted activities (to cherries, vines etc., plant development, photosynthesis).
- 31 Soils in this location are specifically suitable for orchard and other horticultural uses and the expansion of the quarry proposed would undermine this productive capacity and what is a finite resource critical to the District. Economic benefits of the proposal are considered to have been exaggerated, given the locality and small scale of the site in comparison to other existing similar activities already operating.
- 32 The proposed operations will have adverse reverse sensitivity effects on these planned operations as well as existing orchard operations in the vicinity due to effects as outlined above in this submission. Multiple consents have been approved for horticulture, viticulture and lifestyle blocks, and to squeeze a quarry in between those consented and anticipated activities is contrary to the purpose of the District Plan and the Rural Zone.



- 33 The proposed application is contrary to the Rural Zone objectives and policies and intentions for use of the finite soil resources in the District, given that the land cannot be used for other purposes once the lifetime of the quarry has ended. No proposals have been included to address soil conservation (being a Regional Council s30 function), including proposed rehabilitation of the land (which has not occurred to date on the Site).
- 34 This area is a finite soil resource, ideal for viticulture and horticulture production, which is protected by the Land Use Classification system of soils. These productive uses outweigh economic benefits of the Application proposal long term, while not undermining soil fertility and other compatible land uses.
- 35 A bond is sought from the Applicants such as to secure the ongoing performance of conditions relating to long-term effects, given the past breaches that have occurred on the Site and the significant environmental effects anticipated.
- 36 Adverse effects on these matters are considered to be significantly adverse and unable to be mitigated by consent conditions.

### **Decision sought**

- 37 The Submitters seek the following decision from ORC:
- (a) That the Application be declined in its entirety; and / or
  - (b) That further conditions be imposed on the consent, including the following:
    - (i) The expanded quarry be set back a minimum of 200 metres from the boundary with neighbouring rural properties, including the Submitter Land;
    - (ii) A consent condition be adopted requiring that the perimeter bunds be irrigated and planted, and potentially fenced for safety;
    - (iii) All activity, including loading of trucks and staff leaving, be limited to current operating hours;
    - (iv) A consent condition be adopted requiring more stringent and regular outside monitoring;
    - (v) A spray truck wash operate around the quarry, whether trucks are loaded or empty;
    - (vi) A consent condition be adopted limiting the maximum land area of that can be exposed after excavation at one time;
    - (vii) A consent condition be adopted preventing quarry activities being moved from present locations within the site (including rock crushing facilities);
    - (viii) A consent condition be adopted requiring an annual compliance check comparing the start condition of the water, degradation, turbidity and contamination with any effects from the quarrying activity;
    - (ix) A consent condition be adopted requiring pond liners to prevent leaching and an annual review of any leaching effects by an independent contractor with the results of that review to be submitted to ORC;
    - (x) That a bond be secured to ensure the performance and obligation of consent conditions are met; and

(c) Any additional, further or consequential relief necessary to give effect to the matters raised in this submission.

38 The Submitters which to be heard in support of this submission.

39 If others make a similar submission, the Submitters will consider presenting a joint case with them at the hearing.

11 June 2021

*Maree Baker-Galloway*

Nicola Jane Clark and Bryson David Clark  
Signed by their duly authorised agents  
Anderson Lloyd  
Per: Maree Baker-Galloway

Address for service: [maree.baker-galloway@al.nz](mailto:maree.baker-galloway@al.nz)/[rosie.hill@al.nz](mailto:rosie.hill@al.nz)