

**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: Bloomsbury Stud (NZ) Ltd

Postal Address: C/- Mr AD Harris, Harris & Co Ltd, Chartered Accountants  
PO Box 209, Matamata Post Code: 3400

Phone number: Business: [REDACTED] Private: \_\_\_\_\_  
Mobile: \_\_\_\_\_

Email address: [REDACTED]

We wish to **OPPOSE** the application of:

Applicant's Name: BTS GT Ltd, AP McQuilkin Family Trust

And/or Organisation: \_\_\_\_\_

Application Number: RM19.151

Location: Glencoe Road, Arrow Junction

Purpose: Take and use surface water

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

All of the application.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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).

See attached submission document. We oppose the whole application.

\_\_\_\_\_

Bloomsbury Stud should have been notified as it and other users of its land at 50 Jeffery Road are affected by the proposal.

\_\_\_\_\_



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

- That the application be publicly notified.
- That the consents be declined.
- 
- 

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** 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.*

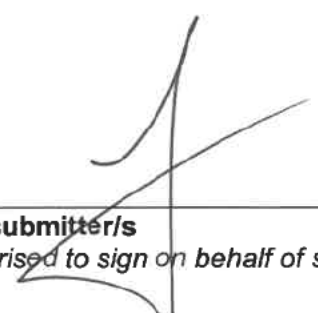
I **am** directly affected by an effect as a result of the proposed activity in the application that:

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

I **do** 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.

  
\_\_\_\_\_  
**Signature/s of submitter/s**  
(or person authorised to sign on behalf of submitter/s)

3/8/20  
\_\_\_\_\_  
(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)

## Attachment to Submission Opposing Consents RM 19.151

To: Otago Regional Council

Name of submitter: Bloomsbury Stud (NZ) Ltd

### Summary of Submission

1. The submitter **opposes** the grant of consent to the current application for the reasons set out below.
2. The submitter seeks that the application be **declined**.
3. The proposal will have significant adverse effects on the environment. It does not sustain the potential of the resources of the Royal Burn and New Chums Creeks to meet the reasonably foreseeable needs of future generations nor safeguard the life-supporting capacity of the water and ecosystems of which those resources form part.
4. The proposal fails to promote the sustainable management of natural and physical resources and should be declined consent.
5. The application and assessment of environmental effects (**AEE**) are incomplete and inadequate to describe and assess the proposal and its effects on the environment. There is inadequate information to determine the application and it should be declined.
6. The application should have been publicly notified as the adverse effects of the proposal will or are likely to be more than minor. As it was not so notified, the application must be declined.
7. The application wrongly implies that there are no authorised surface takes on the Royal Burn Creek except for the one approximately four (4) km downstream. There are other landowners including those in a communal water scheme (LOFTS Water Ltd) who draw water for domestic supply who will be directly affected by the proposal and who should have been notified.
8. The application and AEE do not fairly nor properly describe the purposes for which the water is to be taken and used. The water is to be used mainly for a private golf course and for a ready-lawn turf growing enterprise, both of which are extraordinary uses of water significantly in excess of a typical, actual farming operation.
9. The application and AEE rely on historic water allocations, the 'deemed' permits, without acknowledging that the maximum rates of take provided for by the historic allocations were not sustainable nor practically capable of being applied; and that they would have depleted the water resources of the two creeks. The AEE acknowledges that the maximum rates of abstraction from each creek exceed their mean flow but it does not assess the effects of this nor do the applicants propose any measures to control it.
10. It is disingenuous to assess the proposed takes by comparison with the 'deemed' permit maxima rather than by assessing the actual and likely effects of the proposal.

11. The application and AEE refer to historical water use being 'significantly' below the maximum limits but do not provide information (e.g. in the form of graphs or tables) to enable this assertion to be considered and assessed. As the applicants do not propose to limit future water takes to at or below the historical takes, historical take information provides no basis for assessing the effects of the proposal.
12. The application proposes a condition to review the limits only if the water is not being used. This does not address the need for reviews so as to address adverse effects on other users and the environment.
13. The applicants are the first on the Royal Burn creek and they should not be permitted to take all the water and run the creek dry at the expense of downstream users and the environment. That the creeks are likely to run dry creates a further concern for the ongoing quality of the water that will be available to other users.

## **Part B – Description of the Points of Take**

### *Points of Take – Royal Burn North Branch*

14. The application is misleading when referring to the water being taken for irrigation and stock purposes. The inference is that the irrigation is for crop or pasture, i.e. farming irrigation. There is no explanation that the irrigation is for a private golf course (there is one mention towards the end of the application) or ready lawn (no mention at all in the application). Nor is there any information about whether or not the golf course and ready lawn enterprise will be expanded.
15. The purposes for which the water is to be taken are not the same as or similar to those provided for by the deemed permits.
16. There has been a significant change in the use of the land since the original allocations and the applicants' arrival. During construction of the extensive race system and ponds at the head of the Royal Burn catchment the Royal Burn creek was run dry depriving families and farms downstream of any water for long periods of time. This was brought to the attention of the applicants and Otago Regional Council but nothing was done about it.
17. The consents sought by the applicants and their intended use of the water will result in both creeks running dry.

### *Surface Water Hydrology – Royal Burn North Branch and New Chums Creek*

18. The application refers to the Royal Burn creek having a low flow and being dry at times. As stated above, this has only occurred since the land use of the applicants' property changed in recent years from farming to a recreational golf course and ready lawn enterprise.
19. Prior to the applicant's change of use the Royal Burn always maintained a significant flow in excess of what was needed. However, this is no longer the case due to the actions of the applicant in recent years.
20. The extensive earthworks constructed by the applicant at the head of the Royal Burn North Branch has had a considerable impact on the natural capture and flow of water into the creek affecting water levels. The applicant has endeavoured to capture all available water and divert it to recently constructed ponds.

21. The earthworks and infrastructure undertaken by the applicant have adversely affected the water quality and resulted in the growth of algae below the intake site which was not there previously.

### **Part C – Volume and Rates of Take**

22. The deemed consents purport to allow maximum takes far in excess of what is available or sustainable. The proposed takes are also well in excess of what is sustainable. For example, the annual take volume equates to 80% of the mean annual flow of the creeks.
23. Given that the greatest demand for irrigation is in periods when the stream flow is likely to be below the mean average, the proposed takes are not practicable nor sustainable.
24. The application does not include details of high flows or median flows. It provides no details of what times of the year over what times, or in what conditions the applicants propose to take water for irrigation, nor what will be irrigated.
25. While the applicants claim to be reducing the amount of water take, this is only relevant if these levels are based on maintaining sufficient flow levels in the Royal Burn creek to ensure all downstream users have continued and reliable access to clean fresh water from the creek. If the levels proposed by the applicant leave only a residual amount of water trickling down to downstream users, both water quantity and water quality will be adversely affected.
26. The application has identified this issue regarding the maintenance of the water races and states that if they are not maintained the gravity fed water at certain levels in the races could become burdened with weeds and silt – but does not address this as an effect on the Royal Burn creek.
27. As the application states, *“Clearly the maximum rate of abstraction sought from each creek exceeds the mean flow for both of these creeks”*. This should not be permitted.
28. The application acknowledges that the levels the applicants require exceed what the Royal Burn can sustain. Furthermore, the applicants say that during dryer periods they want to continue to take the water however this will deprive all other families and farms during times of particular need – for domestic, stock and actual farming.
29. The application indicates that there are storage ponds, but only one is described. The application talks about taking peak (winter) flow and storing it for summer use. However, the volume of storage equates to only about two days of peak demand for irrigation so does not support this contention. There is no information about any other storage ponds or proposed ponds, their volume, location or consenting status.
30. The applicants’ proposal to take water for storage in ponds on their properties will reduce or prevent aquifer recharge from the streams and result in significant loss by evaporation.

### **Part E – Historical Water Use Evidence**

31. The application states that the water data collected show that what the applicants have been taking is considerably less than the maximum allocation limits on their current deemed permits. This has nothing to do with their modern infrastructure but more to do with the excessive water allocations of the historical deemed water permits. This issue is being rectified by the ORC through the current resource



consent process for all deemed permit holders and should be rectified here. The application seems to be contrary to the intentions of the ORC in reviewing and rectifying the existing historic allocations.

#### **Part G – Assessment of Environmental Effects (AEE)**

32. The AEE claims that there will be no effect on other users from the proposed takes. This claim is wrong and is not substantiated by any data.
33. The AEE refers to 'barely measurable' flows referring to figures between 5 to 11 L/s. This is incorrect as pipeline flows of this size are easily measured.
34. The AEE claims no adverse environmental effects due to the absence of fish. It does not mention nor assess the presence and effects on other fauna which may be present either permanently or intermittently.
35. In any event the claims are wrong. There are brown trout present in the Royal Burn creek and whole ecosystems reliant on the water in the two creeks.
36. There are other natural values not considered by the AEE including a popular walking track.

#### *Mitigation Measures*

37. The application refers to the Lower RBNB's history of being dry however this has only been the case since the applicants began diverting water. Because the Lower RBNB feeds into the Royal Burn creek the applicants must ensure that it does not run dry as it would adversely affect water levels in the creek downstream of their properties

38. Page 23-24 of the application states –

... no daily maximum has been proposed. Allowing the applicant some flexibility in the way that water is taken by allowing the maximum possible rate on some days and less on other days, as long as the monthly maximum is not exceeded, will not result in any adverse effects on the environment and will still ensure that water is used efficiently.

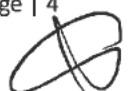
We completely disagree with this approach. There must be a maximum the applicants can take per hour to ensure the creek has a consistent flow for all other users as well as for the creek's health. The applicants have a history of complete disregard for all downstream users and on many occasions have stopped all water in the Royal Burn creek.

39. The application and AEE do not address the potential effects of the water takes on the groundwater aquifers along the Crown Terrace.

#### **Part I – Consultation**

40. Page 24 of the application states –

There are no known authorised surface water takes from the RBNB or New Chums Creek downstream from the applicant's point of take. The nearest known downstream authorised surface water take on the main stem of the Royal Burn is Water Permit 97402, which is located over 4 km downstream. This take is down near SH6 and the Royal Burn traverses a steep descent from the Crown Terrace before it reaches this location. Based on the distance between the proposed activities and this downstream take, and the fact that there is so much uncertainty in terms of effects



on the flow regime between the two locations (i.e. losses and gains over this stretch), then any effects of the proposed activities on this take are expected to be immeasurable. All permits on the Royal Burn have equal priority.

41. The applicants claim to be completely ignorant of other users including the 10 properties making up the communal water scheme referred to above, and of the fact that their activities to date have had an impact on water users downstream including the submitters, some 4 kms away. The application states that all permit holders have equal priority therefore the applicants, being the first on the Royal Burn creek, have an obligation to ensure that all downstream users have equal priority by ensuring sufficient flow at all times.
42. If consent is granted it should be on conditions that allow the downstream and other users reasonable access to the surface water.

### **Part J – Statutory Assessment**

#### *Resource Management Act 1991*

43. Page 25 of the application states –

This proposal is also consistent with the requirements of Section 7 of the RMA, with particular regard given to the efficient use of natural resources, the maintenance and enhancement of amenity values, intrinsic values of ecosystems, and the maintenance and enhancement of the quality of the environment.

This statement is a complete contradiction of the applicants' actions historically. If the application was to be granted it would result in the creek having no water in it and therefore it must offend against the requirements of s 7 of the RMA.

#### *National Policy Statement for Freshwater Management 2014*

44. The application then goes on to state –

The proposal will enable land owners to continue to operate, which will in turn benefit the economic well-being of the community through the provision of productive economic opportunities.

45. The only landowners who will benefit are the applicants. The other landowners/downstream users will be deprived of these same rights and opportunities.
46. The proposal is contrary to Policy B5 and B6 of the National Policy Statement for Freshwater Management 2014 as it will result in, and/or perpetuate, the over-allocation of the water in the two streams to the applicants at the expense and to the detriment of the other users.

#### *Resource Management (Measurement and Report of Water Takes) Regulations 2010*

47. The applicants have consistently implied that the Royal Burn has low flows in the summer, but this has only occurred since they arrived and diverted all the water. Prior to that, the creek historically maintained a decent flow.
48. The application says –



Abstraction of water from the Royal Burn in the height of summer may influence the point at which the creek eventually goes dry, however, no adverse effects are anticipated from this, as discussed earlier in this report.

49. This contradicts the statements made that the applicant intends to run the Royal Burn dry in summer.

*Proposed Regional Policy Statement 2016*

50. The proposal is contrary to the Proposed Regional Policy Statement as it will not allow (and will prevent) persons other than the applicants to take and use the surface water and will or may adversely affect flora and fauna, recreation activities and amenity values.

51. The proposal will not enhance natural character as claimed in the AEE.

*Regional Plan: Water for Otago 2004 (RPW)*

52. The proposal has been incorrectly assessed against the RPW. Contrary to the statement in the AEE, there are several other lawful users who will be affected by the proposal. The effects of the proposal on the environment will be more than minor. The proposal does not represent an efficient use of the water, particularly as it is intended to allow for the excessive use of the water for a golf course and ready lawn turf enterprise.

53. The proposal is inconsistent with, and contrary to, policies and assessment criteria in the RPW.

*Kai Tahu ki Otago Natural Resource Management Plan 2005 (NRMP)*

54. The proposal is inconsistent with, and contrary to, the NRMP. The amount of water being sought is in excess of the amount reasonably required for irrigation and stock water supply. The AEE does not explain the intended purpose and in particular is silent as to the purposes being for a golf course and a ready-lawn turf enterprise (and any expansions thereof).

**Summary**

55. It is very clear and repeated throughout the application that the applicants have every intention of running the Royal Burn creek dry. All statements relating to environmental considerations are contradicted by this. It is of particular concern that the applicants demonstrate a lack of awareness or concern about the impact their activities have had and will have on the water users downstream to date – stating they are only aware of one other user 4kms away. To get to their properties the applicants have to drive past all the other users – the families that rely on domestic/stock water takes.

