

Before the Hearing Panel

Under the Resource Management Act 1991

In the matter of applications by Cromwell Certified Concrete Limited to the Otago Regional Council and Central Otago District Council for discharge permits, a water permit and a land use consent relating to expansion of an existing quarry at 1248 Luggate-Cromwell Road

Statement of Evidence of Nicola Jane Clark

8 December 2021

Submitter's solicitors:

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**anderson
lloyd.**

Background

- 1 My full name is Nicola Jane Clark.
- 2 My husband, Bryson David Clark, and I own the property at 1308 Luggate-Cromwell Highway (legally described as Lots 2 and 7 DP 301379) (**Property**). We have owned the Property since February 2014.

Purpose of evidence

- 3 This evidence is provided in relation to the applications by Cromwell Certified Concrete Limited (**Applicant**) to Central Otago District Council (**CODC**) and Otago Regional Council (**ORC**) for discharge permits, a water permit and a land use consent relating to expansion of an existing quarry at 1248 Luggate-Cromwell Road.
- 4 The purpose of this evidence is to document the effects the existing quarry operations have had on our enjoyment of the Property, and detail our concerns with respect to the current Application to expand operations.

Executive Summary

- 5 Our dwelling is located over 220 metres from the boundary of the existing quarry. Despite this 220 metre setback, we have experienced nuisance dust and adverse air quality effects from the existing quarry operations on multiple occasions.
- 6 We understand the quarry expansion is proposed to be setback 50 metres from the front façade of our dwelling, 50 metres from our sleepout /workshop, and 25 metres from our commercial storage shed.
- 7 Existing noise and vibrations from operations affect our quiet enjoyment of this rural area. While we acknowledge that we bought the property in the knowledge of the existing quarry operations, in no way did we expect that an expansion of this magnitude and scale might be proposed down the track.
- 8 The effect on our outlook will be significant in respect of the proposed expansion area. We bought this property on the basis of its rural outlook and views, and understanding the existing quarry location would have a finite economic life (and that we are covenanted in terms of objections on that part of the site) however this did not cover the expansion area. To lose these rural outlooks and views, and what we really enjoy about the area, will have a really negative effect on our lifestyle, our retirement and business plans, and the value of our property.

- 9 We are not the type of people to outright oppose any activities in 'our backyard'. We are from a rural sector background and understand the need for activities such as quarries to locate where resources are. However this particular proposal, with its proximity to residential uses, is of significant concern to us.
- 10 As we are already adversely affected by the existing operation, we believe the now proposed very close setbacks will significantly increase the currently experienced adverse effects on us. We consider that the proposed conditions of consent are either unlikely to be complied with (based on our experiences to date) or are unworkable and unenforceable. Without significantly increased setbacks from our Property, we do not feel that the additional effects in terms of visual amenity, dust and air quality, noise / vibrations, and other general amenity effects will allow us continued enjoyment of our Property.
- 11 For the above reasons, we seek that the application be declined in its entirety.

Details of previous non-compliances – dust and air quality

- 12 The nature of operations on the existing quarry site have increased dust and air quality effects on us. In particular, stockpiles and large open areas which are not progressively remediated, combined with operational vehicle movements and excavation operations cause dust drift problems.
- 13 In February 2020, we experienced increased activity at the quarry over a two-week period. A digger was loading overburden and topsoil onto RVC and Fulton Hogan trucks. We counted up to 10 truck & trailer units being loaded every day. These trucks were constantly going in and out of the quarry, carting loads to Rush Lane, off Gilmore Road, to a cherry orchard being developed by Jimmy Loo. The dust was extreme and very unpleasant as experienced from our Property. The winds were blowing the dust created by this activity over the neighbouring properties, including ours. Most days the winds were blowing south of the quarry towards Cromwell direction, but one afternoon our Property got the brunt of it. Our storage shed was blanketed with the dust and the dust cloud reached as far as our workshop/sleepout. No mitigating measures were being used to control the dust over this two week period, and we experienced ongoing and sustained adverse effects from dust. Quarrying continued despite the winds being very strong and continual most afternoons.
- 14 I didn't take any videos on this instance or make a formal complaint, because at that point I was unfamiliar with the enforcement process, and was unsure which avenues to go down to help address these issues.

- 15 On the afternoon of 14 September 2020, strong winds caused a dust cloud to blow from the quarry onto the Property. I rang CODC to complain about the dust and was advised that no-one was available to attend. I was subsequently forwarded an email from the quarry manager, Travis Allison, advising that they have trouble controlling dust in windy conditions. A copy of the email is attached as **Appendix A**.
- 16 On the afternoon of 27 November 2020, strong winds caused a dust cloud to blow from the quarry towards Queensbury. The dust cloud surrounded the whole Property, as well as settling / descending on top of the Property. It also continued up State Highway 6. I rang CODC and requested that someone come and view the problem, but no-one was available. I was advised by CODC to record the dust. I did so and emailed this to CODC & ORC to have on record with my complaint. A copy of the email is attached as **Appendix B**. A copy of the video recording taken on 27 November 2020 is attached as **Appendix C**.
- 17 Following this incident, I was advised that there is an ORC pollution hotline that is the best contact for these breaches. I now have the cell phone number for the pollution officer from Wanaka, Joseph Fraser, who can attend and view at the time of an incident.
- 18 On the morning of 4 April 2021, we witnessed dust clouds rising up from the quarry. On further investigation, I discovered that the dust was coming from stockpiles inside the quarry, breaching the southern boundary and blowing over neighbouring properties. We phoned ORC to report this incident, but no-one attended in response to this. Another phone call was made to Joseph Fraser, who advised he was off duty, because it was Easter Sunday. I emailed Sarah Davidson at ORC on 26 April 2021 expressing my concern about the dust and enclosing a video recording of the dust issues taken on 4 April 2021. In a follow up email I was advised that another member of the public had made the same complaint, and that this event was attended by someone else from ORC and the quarry manager was spoken to. A copy of the email is attached as **Appendix D**. A copy of the video recording taken on April 4 is attached as **Appendix E**.
- 19 All of these examples of adverse dust and air quality effects are very stressful for us and significantly affect our ability to enjoy the Property. Each of these occasions has been marked by high winds, however in our experience, high winds and winds which change direction quickly or are unpredictable, are very common in this area, coupled with dry weather patterns.

- 20 Dust settling on our Property, including our sheds and sleepouts is disconcerting, requires cleaning up, and causes us great concern for our health when we are breathing it in during these periods. It also affects our general way of life, from hanging out the washing, to enjoying time outdoors with our kids and grandkids, pets, and socialising with friends.
- 21 I am particularly concerned if this current expansion application is granted consent and these existing effects are further exacerbated by our Property being surrounded on a further side by quarry activities, by reduced setbacks, and increased volumes of operation. I feel uncertain that conditions for dust management will be able to be adhered to and enforced, given my past experiences detailed above, and comments from the quarry manager, that they have trouble controlling dust in windy conditions.

Current uses of our property and effects on those

Visual and amenity effects

- 22 When we bought the Property, it was marketed to us as being peaceful and serene and as having outstanding, unobstructed 360 degrees views from every window. It is located in a stunning area of natural, rugged and iconic Central Otago beauty. Not only did we fall in love with the views, but we recognised the huge potential for it to be our dream retirement block of land that would give us an income source, while enjoying this beautiful rural amenity.
- 23 We bought in the knowledge of, and understanding that, covenant restrictions related specifically to the existing quarry land, being the 18.9ha of Lot 8, but not in respect of further surrounding land areas, which included views special to the Property.
- 24 The feeling of enclosure that we will get from the expansion area, plus the loss of our views towards Lake Dunstan will be devastating for our enjoyment of the Property, and for the value of the Property as part of our succession planning. We bought into the area knowing that it was of a rural zoning that provided regard for, and protection of, rural amenity and open character.
- 25 Current views from our deck and from the edge of our boundary are spectacular, and one of the most important aspects of our enjoyment of the Property. I have taken photographs from both of these locations, looking towards the proposed quarry expansion, as set out in **Appendix F** of this evidence. I don't believe that these viewpoints have been accurately represented in Viewpoint 1 of the Applicant's visual assessments, and I am

doubtful that natives will successfully establish on these bunds, or be maintained appropriately.

- 26 I am particularly disappointed with the proposed mitigation conditions suggested by the Applicant. Bunding along our boundary will obscure our views and create a dominant feeling as if we are being closed in within our Property. The bund is right in front of our main outdoor living area with our primary views from our sliding doors out of the living room.
- 27 This is not just a visual effect (which is the focus of the Applicant's evidence) but is about our broader enjoyment of our rural outlook, and enjoying our Property for the peace, quiet enjoyment, open spaces and sense of remoteness which it was bought for.

Effects on horticulture and alternative land uses

- 28 The soils at our Property are particularly suitable for establishing a grape or cherry business, as shown by the surrounding properties of the same type of consented land uses. The area is renowned for growing fruit with award-winning wines produced from grapes grown here. Our plan is to develop our property into an export cherry business (irrigation, nets, water covers, dust covers etc.) to support us financially. The Property has a water allocation permit to enable this land use. This right, and the location's permitted uses for orchard growing are further reasons why we bought the Property.
- 29 The quarry application to expand onto the neighbouring land with a proposed three-fold increase of gravel extraction, increased vehicle movements and bunds in very close proximity would render our land useless for these planned land uses. I have experience in growing conditions for arable crops from my rural background and experience in dairy farming in Southland. I believe that the proposed bunds, in addition to those of the existing quarry operation, would surround our Property on three sides and create a frost bowl that would devastate any crops, viticulture or horticulture land uses.
- 30 As there have been dust breaches with the current quarry operation, the hugely increased risk of dust breaches in this windy, dry location would also disturb the developing fruit and cause a huge problem to the irrigation and nets required to develop a good crop. This would be financially devastating to our retirement income.

Storage business and dust effects

- 31 Another reason we purchased our Property was to establish a storage business as another income stream. The storage shed was constructed in 2014 and is a current successful business storing clients' Property in the shed and externally. The area beside the storage shed has been fenced with plenty of space to build another shed in the future with a plan to expand this business.
- 32 If this quarry expansion application were approved, and with it, the increase of extraction and vehicle movements from this very close proximity, our business reputation would be ruined and we would have no clients. No client would accept their assets being exposed to the increased risk of dust.
- 33 Although the shed is purpose built and modern, there is still often dust found within the building and on clients' property. The summer months are particularly busy, with us needing to access the shed sometimes multiple times a day (and with clients) to store, locate, and access property. Opening and closing doors frequently creates an increasing problem with dust blowing onto our Property.
- 34 Even in quieter times of the year when we are not opening doors frequently there seems to be dust settling on client property. On the side of the shed closest to the proposed expansion lot, we have 'self-access storage' where clients have their own keys and so we don't check the stored goods frequently. We recently went into this area and observed there was a layer of dust settled all over the client's property, even though this shed had not been accessed for some time.
- 35 We purchased the Property and planned for these land uses well before this quarry purchased the neighbouring land with a view to expand.
- 36 We intended to enjoy the future and eventually, our retirement, on our Property, in this beautiful location. With the likelihood of dust breaches, and an imposing bund towering over the boundary fence creating a dreadful enclosed feeling in our main outdoor living area and the main view we enjoy, this planned enjoyment will be gone forever.

Current uses vs expansion

- 37 When we purchased the Property in 2014, we knew of the existing quarry operation and understood that the likely lifespan of it would be only several years. The quarry was over 200m from the back of our dwelling and running in one direction. Our dwelling is at the far corner of our Property with our living and decking facing away from this existing operation.

- 38 Although I accept that outcome was not guaranteed, the covenants registered on the Property suggested to us an expectation that the quarry land was confined to the existing Lot 8 Area. At that point in time, the quarry did not own the proposed expansion site and nor was it for sale. The owner of this block of land at that time was intending to build on it. We could not have anticipated that there was the potential for a quarry extension and increase in scale like that which is proposed.
- 39 Covenants on the property indicated that there was a limited lifespan of the commercial operation of the quarry. As the quarry had a lifespan that would finish in the near future, we expected that the covenants would, also.
- 40 With the current existing quarry, although we are over 200m away, we hear the noises from the current operating activities, including the reversing tonal beeping. The proposed expansion, if consented, would have operating noises from a very close proximity to the facade of our house, at an increased scale. Therefore, even if the noises from the expansion block were within permitted levels, we would be going from no noise at our living/decking/outdoor area, to a lot of noise, 6 days a week, all day, with barely any respite. The wine, beer and BBQ in peace, would no longer exist, except for on a Sunday. This would be a significant change to the enjoyment of our environment.
- 41 Our core business currently, elsewhere, is farming, so we understand that differing rural land uses are important to the economy. We are not opposed to the continued existing operations of the quarry, and accept it as part of the rural environment, but we need better conditions of management than what has happened in the past, as enforcement is difficult, particularly when it is self-monitored.
- 42 We believe that the expansion area in particular is unsuitable and in the wrong location for quarrying, being squeezed in between, and surrounded by, differing land uses that are not compatible with quarrying. We consider quarrying and its by-products are essential to the community, but need to be in an appropriate location.
- 43 We are opposed to this application for expansion for all the adverse effects it would create.

Dated this 8th day of December 2021

Nicola Clark

Appendix A – Email regarding 14 September 2020 dust effects

From: Resource Consents
Sent: Wednesday, September 16, 2020 11:23 AM
To: clarks1@xtra.co.nz
Cc: Resource Consents
Subject: FW: Dust Concerns out at 1248 Luggate-Cromwell Road (SH 6), Cromwell

Hi Nikki,

Just thought I would update you and let you know I have heard back from the Quarry Management about the measures in place for the dust mitigation and the future steps they are looking to take in the near future.

Please let me know if you would still like me to ring you later on,

Kind Regards

Maddy Albertson

MADDY ALBERTSON	p +64 3 440 0684	FOLLOW US ON
PLANNING OFFICER	m +64 22 010 6236	
1 Dunorling Street	f +64 3 448 9196	
PO Box 122, Alexandra 9340	e Maddy.Albertson@codc.govt.nz	
New Zealand	w www.codc.govt.nz	

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Sent: Monday, 14 September 2020 4:10 PM
To: Maddy Albertson <Maddy.Albertson@codc.govt.nz>
Subject: RE: Dust Concerns out at 1248 Luggate-Cromwell Road (SH 6), Cromwell

Hi Maddy

I am responding to your email that was sent to McNultys Transport today in regards to dust at Amisfield Quarry.

We are taking measure's to mitigate our dust, on days like today we use our sprinklers that are permanently mounted up and down our drive way and

around the quarry, but during this unpredictable spring weather it is very hard to stop everything from leaving the quarry.

Amisfield Quarry is taking further steps for the future by building up a water cart to work around other areas of the quarry to dampen dust and stockpiles, but unfortunately its around a month away from completion.

On a side note we have also recently had Beca on site to complete a technical assessment for effects of dust discharge, were they have given us some trigger values and methods to control any discharge that we hope to be implementing in the near future.

Please feel free to contact me directly if you have any further questions.

Regards,

Travis Allison
Quarry Manager

From: Maddy Albertson <Maddy.Albertson@codc.govt.nz>

Sent: Monday, 14 September 2020 3:22 PM

Cc: Resource Consents <Resource.Consents@codc.govt.nz>

Subject: Dust Concerns out at 1248 Luggate-Cromwell Road (SH 6), Cromwell

Hi,

I rang and left a message earlier,

Just trying to touch base around some concerns of un-managed dust coming off the luggate-cromwell road site with the windy days we have been having over the last week.

I have attached the resource consent for this site which shows dust needs to be mitigated.

Would you be able to confirm for me that suitable measures are being taken with the current wind?

Feel free to contact me if you have any questions

Kind Regards

Maddy Albertson

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Appendix B – Email regarding 27 November 2020 dust effects

Thanks Nicki. Both those requests have been actioned.

Regards
Joseph

Sent from my Galaxy

----- Original message -----

From: Nicki Clark <clarks1@xtra.co.nz>
Date: 11/12/20 4:43 PM (GMT+12:00)
To: Pollution <Pollution@orc.govt.nz>
Subject: Re: Amisfield quarry enquiry

Joesph,

Have attached 2 videos of extreme dust coming from the Amisfield Quarry on 27 November – 4pm.

They are from our house, 1308 Luggate Cromwell Road and looking to the State Highway 6– Cromwell to Wanaka.

As you can see, in these windy conditions, insufficient mitigation was taken to stop dust blanketing everything for multiple kms.

This is typical of the Amisfield Quarry and the non-compliance of their current consent conditions.

Currently they have a consent application in with CODC & ORC to expand onto an additional block of land, increase operating hours and increase production by 3 times.

The proposed expansion consent application relates to a property **between** a residence/business and an orchard with housing.

Dust isn't controlled with the current operating conditions.

The quarry's neighbouring properties are currently experiencing extreme adverse effects. Please file this email and videos and forward to consent staff to use in application processing and consideration.

Regards
Nicki Clark

From: Pollution
Sent: Friday, December 11, 2020 4:31 PM
To: Clarks1@xtra.co.nz
Cc: Pollution
Subject: Amisfield quarry enquiry

Hi Nicky,

Thank you for getting in touch regarding the dust coming from the Amisfield Quarry. The Otago Regional Council has received a number of complaints about this issue recently and myself and

another Environmental Officer were onsite Monday to assess their dust suppression measures. While onsite we observed no breaches of the permitted activity rules and the dust suppression was operating and working effectively. We will continue to respond to complaints as we receive them.

You can email through videos and photos to this email address, which is pollution@orc.govt.nz. You can also make complaints via this email or 0800 474 082 from 8am to 5pm Monday to Friday or via our pollution hotline 0800 800 033 which is a 24/7 service. It is best to make a complaint when the discharge is occurring and you are experiencing adverse effects, to allow our officers to get onsite and assess the discharge.

Regards,
Joseph.

Joseph Fraser
ENVIRONMENTAL INCIDENT RESPONDER

P 0800 474 082 | M 027 530 4581

joseph.fraser@orc.govt.nz

www.orc.govt.nz

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Appendix C – Video recording of the 27 November 2020 dust effects

Appendix D – Email regarding 4 April 2021 dust effects

From: Joseph Fraser <Joseph.Fraser@orc.govt.nz>

Sent: 19 May 2021 1:31 pm

To: clarks1@xtra.co.nz

Cc: Pollution <Pollution@orc.govt.nz>

Subject: RE: Amisfield Quarry - Luggate Cromwell Road

Thanks Nicki. I will get that followed up with the call centre.

Regards

Joseph.

From: clarks1@xtra.co.nz <clarks1@xtra.co.nz>

Sent: Wednesday, 19 May 2021 1:07 p.m.

To: Joseph Fraser <Joseph.Fraser@orc.govt.nz>

Subject: RE: Amisfield Quarry - Luggate Cromwell Road

Joseph

Thank you for your reply.

I made a phone call to Pollution Hotline at 8.03am then to you on 4/4/21 at 8.08am.

Nicki

From: Joseph Fraser <Joseph.Fraser@orc.govt.nz>

Sent: 19 May 2021 12:28 pm

To: clarks1@xtra.co.nz

Cc: Pollution <Pollution@orc.govt.nz>

Subject: RE: Amisfield Quarry - Luggate Cromwell Road

Hi Nicki,

The ORC received one complaint relating to a dust discharge from Amisfield Quarry on the 4th April which was made by another member of the public. Unfortunately we don't have a record of a complaint being made by you. I do recall our brief phone conversation on the Sunday morning, but I didn't log it with the afterhours staff as I advised you to make a complaint directly should you wish to.

Could you please confirm you called the pollution hotline 0800 800 033 on this day? If so, we will need to follow up with the call centre to see why the complaint wasn't passed on.

The complaint that was made was attended and the quarry manager spoken to at the time. Our officer instructed the manager to apply dust suppression onsite to mitigate the dust leaving the site, which was done. Our officer also noted numerous other natural sources of dust in the area which was contributing to the downwind discharge.

I hope this answers your concerns.

Regards

Joseph.

From: clarks1@xtra.co.nz <clarks1@xtra.co.nz>

Sent: Tuesday, 18 May 2021 2:47 p.m.

To: Joseph Fraser <Joseph.Fraser@orc.govt.nz>

Subject: FW: Amisfield Quarry - Luggate Cromwell Road

From: clarks1@xtra.co.nz <clarks1@xtra.co.nz>

Sent: 18 May 2021 2:36 pm

To: 'pollution@orc.govt.nz' <pollution@orc.govt.nz>

Cc: 'joesph.fraser@orc.govt.nz' <joesph.fraser@orc.govt.nz>

Subject: RE: Amisfield Quarry - Luggate Cromwell Road

Please advise what action was taken on this.

Nicki Clark

From: clarks1@xtra.co.nz <clarks1@xtra.co.nz>

Sent: 26 April 2021 8:59 pm

To: 'pollution@orc.govt.nz' <pollution@orc.govt.nz>

Subject: Amisfield Quarry - Luggate Cromwell Road

I rang the pollution 0800 hotline on April 4 at 8.03am to notify of the dust problem coming from the quarry.

I also rang and spoke to Joesph Fraser who wasn't working that day and unable to come to view.

Did anybody attend this incident?

No-one ever contacted me to follow this up.

I have attached a video of the dust that was pouring off the stockpiles and blowing onto neighbouring properties.

This quarry has an application currently being processed to expand onto the neighbouring block.

It is important that ORC is aware of the dust problems this activity currently creates and that they currently do not have dust discharges mitigated sufficiently.

Nicki Clark

1308 Luggate Cromwell Road

0274 035 905

Appendix E – Video recording the 27 November dust effects

Appendix F – Photos taken from the deck and the edge of the boundary looking towards the existing quarry site plus the expansion area