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SUBMISSION ON NOTIFIED APPLICATION CONCERNING RESOURCE CONSENT

1 Dunorling Street
PO Box 122, Alexandra 9340
New Zealand

03 440 0056

Info@codc.govt.nz
www.codc.govt.nz



(Form 13)

Section 95A Resource Management Act 1991

To: The Chief Executive
Central Otago District Council
PO Box 122
Alexandra 9340
resource.consent@codc.govt.nz

DETAILS OF SUBMITTER

Full name: Mike Borthwick

Contact person (if applicable):

Electronic address for service of submitter: mike@landpro.co.nz

Telephone: 0275888779

Postal address (or alternative method of service under [section 352](#) of the Act):

1 Birchalls Lane, RD2, Cromwell 9384

This is a submission on the following resource consent application: RC No: **230016**

Applicant: **Mervyn N Shaw & Louise M Shaw** Valuation No: **2842114663**

Location of Site: **34A Sugarloaf Drive, Cromwell**

Brief Description of Application: **Subdivision consent for new 2 lot subdivision in a rural resource area and a cancellation of consent notice**

Submissions close 09 May 2023

The specific parts of the application that my submission relates to are:
(give details, attach on separate page if necessary)

all.

This submission is: *(attach on separate page if necessary)*

Include:

- *whether you support or oppose the specific parts of the application or wish to have them amended; and*
- *the reasons for your views.*

Please see attached

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

See attached.

I ~~support~~/oppose the application OR ~~neither support or oppose~~ (select one)

I wish / ~~do not~~ wish to be heard in support of this submission (select one)

I ~~am~~/am not* a trade competitor for the purposes of [section 308B](#) of the Resource Management Act 1991 (select one)

*I/We ~~am/am not~~ (select one) directly affected by an effect of the subject matter of the submission that:

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

**Delete this paragraph if you are not a trade competitor.*

*I/We ~~will~~ consider presenting a joint case if others make a similar submission

**Delete this paragraph if not applicable.*

I request/do not request (select one), pursuant to [section 100A](#) of the Act, that you delegate your functions, powers, and duties to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority. "See note 4 below as you may incur costs relating to this request."



Signature

(to be signed by submitter or person authorised to sign on behalf of submitter)

Date

9/5/2023

In lodging this submission, I understand that my submission, including contact details, are considered public information, and will be made available and published as part of this process.

Notes to submitter

1. 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.

2. 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.
3. 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.
4. 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 will be liable to meet the additional costs of the hearings commissioner or commissioners, compared to our hearing panel. Typically these costs range from \$3,000 - \$10,000.
5. 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.

Submission in opposition to the Application for Resource Consent by M N & L M Shaw for the following reasons:

Access

Sugarloaf Drive is a private right of way which when the original consent was granted by the Environment Court, created a right of way with 10 lots, while only being constructed/engineered to a rural right of way standard. A number of subdivision consents have been granted by the Central Otago District Council since this original consent, allowing the number of uses to greatly exceed the acceptable standard of the required road engineering/construction required to service these lots.

Some widening of Sugarloaf Drive has been undertaken as part of RC21035, however this widening does not go far enough to bring this Right of Way (ROW) up to standard and fails to address the major safety issue of the culvert area being too narrow for two-way traffic, as would be expected when a road (in this case a ROW) services the number of lots it does. It also does not account for pedestrian safety given this location is the joining point of four walking tracks along the Lowburn Stream. Several near misses have occurred in recent months.

The issues of the ROW not being up to the required standard is only part of the issue at hand. The easement documents, which have previously been provided to Council, define the maintenance responsibilities for Sugarloaf Drive. Originally the lots each shared the maintenance responsibilities equally with a share (except for agreements for existing land, that have no fixed cost to pay). As each of the subsequent subdivisions has been granted, Council has effectively burdened the other lot owners with a greater maintenance requirement, as the subdivided lots have had their own maintenance responsibilities watered down. Lot Owners of one of the original lots created have effectively been lumped with additional maintenance costs for the additional lots, as they continue to pay a full share, while the newly created lots enjoy a lower maintenance share of the total being only a percentage of the original one share. There is no legal recourse available to the Owners of the original lots under the maintenance agreement. So, Council has effectively created a situation where they have approved subdivision resource consents that go beyond their own engineering requirements and imposed additional costs of maintenance on lot Owners with no available recourse to rectify the situation as a ROW.

I ask council to inform the existing users of the right of, how they expect them to be able to collect costs for maintenance from this number of parties, when there is no way for users to obtain contact information of all the users.

Any further subdivision needs to be in strict compliance with the requirement to vest the ROW as road to the Council as per the engineering standard that requires this action for any subdivision which will create greater than 6 lots using a ROW. Bringing the ROW up to a road standard is not enough to ensure that maintenance costs are being fairly apportioned to users into the future.

The applicant's contention that Council has agreed that the existing title structure practically prevents vesting and has instead required a 5.5m wide metalled carriageway for the access in their paragraph 2.2 of the application. This is of huge concern to me and a complete disregard of the legal rights of the current ROW users, as it seems to indicate that Council is again willing to impose additional maintenance costs on the current ROW users despite previous complaints raised with Council on this exact matter.

I believe councils processes have not been followed in the granting of consents up to this point and have approved construction upgrades which have not been constructed to standard specified in the consents issued to date.

Again, I reiterate that I oppose this application primarily on the grounds of access and that council has no legal right to grant such a subdivision over a right of way.

I wish to speak at the Hearing please.

Signed:

Mike Borthwick

Address: 1 Birchalls Lane, Lowburn

Email: mike@landpro.co.nz

Phone: 0275888779