

CENTRAL OTAGO DISTRICT COUNCIL
S95A-F DECISION FOR RC230016
34A Sugarloaf Drive, Cromwell

INTRODUCTION

Proposal

The application seeks subdivision consent for new 2 lot subdivision in a Rural Resource Area and cancellation of a consent notice at 34A Sugarloaf Drive, Cromwell.

The application requires consent as a discretionary activity in accordance with Rule 4.7.4 (iii) (b) and Rules 4.7.6 L (1) (e) and 4.7.4 (i) for subdivision of land within an Outstanding Natural Feature (ONF).

The subdivision of the site is proposed to be undertaken in general accordance with the following:

Lot 1 - 2.16 ha - This lot incorporates an area of terrace tread not covered by the existing pivot irrigation system. There is no existing built form on this proposed lot.

Lot 2 - 32.1 ha - This lot will be retained by the applicants and continue to be farmed under the pivot irrigation system. There is an existing dwelling on this lot. The lot includes the Right of Way access from Chinaman's Gully.

It is noted that the "average" lot area calculation is: $(16 + 2.1) / 2 = 9.05ha$ and therefore the proposal meets the minimum lot sizes required by the District Plan. Noting that for the purposes of Rule 4.7.4(iii)(b) allotments in excess of 16 hectares are deemed to be 16 hectares for averaging purposes.

Legal access to proposed Lot 1 is to be provided via a right of way over proposed Lot 2, as detailed on the proposed scheme plan as 'Easement A'.

Legal access to the parent lots is currently obtained via an existing Right of Way over Lot 2 DP 474100 and Lot 1 DP 418764 to access onto Lowburn Valley Road. It is noted that this section of Sugarloaf Drive is sealed and widened to a width of 6.0m in satisfaction of historical conditions of consent of Resource consents RC210358, RC210438 & RC220107.

Site and surrounds description

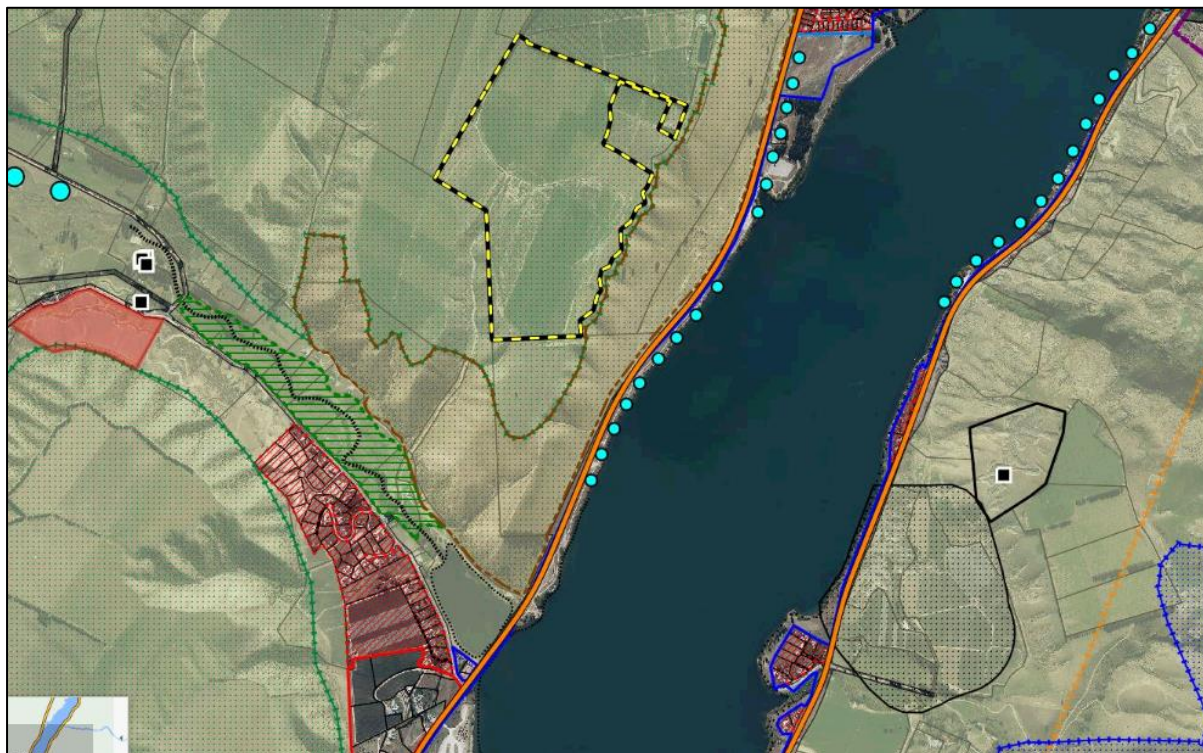
The site(s) are zoned Rural Resource Area and are subject to a Significant Amenity Landscape and an Outstanding Natural Feature overlay. The eastern portion of the site coincides with the top edge of the Sugarloaf Terrace riser and demarcates the boundary between the SAL notation of the terrace tread and the Outstanding Natural Feature (ONF) of the terrace riser.

The site of the proposal is currently part of two titles. Lot 2 DP 508107 (71.0765ha) held in freehold title under RT 772768 and Lot 1 DP 474100 (50.794ha) is held in freehold title under RT 649764. See Figure 1 for detail. The applicant has provided a thorough and accurate description of the subject sites in Section 1.4 of the submitted AEE of which is adopted for the purposes of this report with the following additions:

The subject site is in fact visible from across Lake Dunstan along the ridge of the hills above the Tarras Cromwell Road.

Sugarloaf Drive, as accessed from Lowburn Valley Road is confirmed to currently provide legal access to 21 individual lots, 15 greater than required by Council standards for vesting as legal road. Ten allotments cease at Birchalls Lane and 11 continue on with the network of Right of Ways.

The surrounding lots are zoned Rural Resource Area and contain rural and supporting residential activity and infrastructure.



*Figure 1 – Subject site(s) outlined in yellow and black in relation to the wider environment.
Source: CODC GIS maps.*

Background and site history

The parent sites have been subject to various subdivision and land use Resource Consent applications and approvals over the last five years, specifically;

- RC180241 – Consented a land use consent for the establishment of two residential activities (one for workers) in 2018.
- RC180241V1 – Consented a Change to condition 1, 2 & 3 of RC180241 regarding residential activity and extension of time in a Rural Resource Area with a Significant Amenity Landscape.
- RC190168 – Was withdrawn but applied for a nine-lot subdivision and land use consent for building platforms on each lot that breached skyline and minimum side yard rules in a Rural Resource Area with Significant Amenity Landscape and Outstanding Natural Feature notations.

It is noted that Resource Consent RC190168 was publicly notified as the adverse effects on the rural amenity of the receiving and wider environment were expected to

be more than minor. Fifteen submissions were received, two neither in support or opposition and thirteen in opposition to the application. The applicant's agent, Mr Peter Dymock requested that the application be withdrawn prior to a commissioner's decision being made but after the hearing.

- RC210358 – Consented a three lot Subdivision in the Rural Resource Area, subject to a Significant Amenity Landscape notation.
- *RC210358V1* – Approved a change to condition 4 of RC210358 regarding the surrender of RC180241 in a Rural Resource area with significant amenity landscape notation.
- RC210438 – Consented a five lot subdivision and a cancellation of consent notice in the Rural Resource Area subject to Significant Amenity Landscape and Outstanding Natural Feature notations.
- RC220107 – Consented a two lot subdivision and a cancelation of a consent notice in the Rural Resource Area in an area subject to Significant Amenity Landscape and Outstanding Natural Feature notations.

The current two titles are subject to the subdivisions authorised by Resource Consents RC210358V1, RC210438 and RC220107. As provided for in the consent consent conditions, these subdivisions are being titled simultaneously on a single legal survey plan to create seven new titles. An application was lodged with Council for sec 221 (3), 223 & 224(c) certification on 6 December 2022, but at the time of writing these had not been issued and the subdivisions are not considered to have been given effect to.

The subdivision proposed by way of this application will therefore be a subdivision of Lot 1 DP 582528 (not deposited), Record of Title 1095297 (pre-allocated by LINZ) to be held in the ownership of the applicants.

Sugarloaf Drive is a Private road that provides legal access to 21 individual lots, 15 greater than required by Council standards for vesting as legal road. The processing of multiple, small subdivisions up until this point has allowed for the creation of these lots whilst Sugarloaf Drive, although upgraded at multiple points, remains in private ownership.

SECTION 95A NOTIFICATION

Step 1 – Mandatory public notification

Public notification has not been requested. (s95A(3)(a)).

There has been a failure or refusal to provide further information or the commissioning of a report under section 92(2)(b) of the Act (s95A(3)(b)).

The application does not involve the exchange of recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Therefore, public notification is required pursuant to section 92(2)(b) of the Act (s95A(3)(b)).

Step 2 – Public notification precluded

There are no rules or national environmental standards precluding public notification (s95A(5)(a)).

The proposal is not exclusively for controlled activities and/or boundary activities (s95A(5)(b)).

As above, public notification is required pursuant to Section (s95A(3)(b) of the Act.

The applicant was issued with one request for further information under s92(1) of the RMA on 2 February 2023 containing two matters. The applicant did not respond to this request within the statutory timeframes nor did they seek an extension to respond and have confirmed that the information will not be provided.

The request for further information relates specifically to;

- Due to the proposal's potential representation of a threshold of development that the ONF and Rural landscape cannot absorb in this location, a supporting landscape assessment which assesses the adverse effects of the proposal on the landscape was requested to be provided by a suitably qualified and experienced person.
- Sugarloaf Drive, as accessed from Lowburn Valley Road is confirmed to currently provide legal access to 21 individual lots, 15 greater than required by Council standards for vesting as legal road. In order to vest this road to Council, approval is required from each landowner who gains legal access from the Right of Way). Council requires the applicant to demonstrate that consultation has been made with all relevant land owners who gain legal access from the Right of Way so that the formation and vesting of the road can be undertaken.

I consider that, as a discretionary activity, the determination of this application will include an assessment of the adverse effects of the proposal on the wider and more localised roading network, and an assessment of the proposal against the landscape values of the rural environment and the ONF.

As a response was received confirming that this information would not be provided, I do not have sufficient information to make a determination as to the level of effects of the proposed activities. As a response to the request issued under s92(1) was not received within the statutory timeframes the application must be publicly notified under section 95C(2)(1) as directed by s95A(3)(b) of the RMA.

OVERALL NOTIFICATION DETERMINATION

Given the decisions made under s95C, the application shall be processed on a publicly notified basis. It is noted that the determination, as to whether an application should be notified or not, is separate from the issues to be considered in making a decision on the application itself.

Prepared by:



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Date: 03/03/2023

Reviewed by:



Oli McIntosh
Consultant Planner

Date: 10 March 2023

Approved under Delegated Authority by:



Lee Webster
Planning and Regulatory Services Manager

Date: 13 March 2023